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WH

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WASHINGTON, D.C. 20505

OLC 76-1927

13 July 1976

Honorable Leslie Arends
%Mr. Wheaton Byers, Executive Secretary
President's Foreign Intelligence Advisory Board
The White House
Washington, D. C. 20500

Dear Mr. Arends:

In light of our conversation on 24 June 1976, I am enclosing for your information compendiums on two of the topics we discussed: covert action and the future of CIA relationships with Congress. Some of the material has been overtaken by events but a great deal of it still has validity and it is offered to you on that basis. I also thought you might be interested in the enclosed writeup concerning Rule XI of the House of Representatives, its meaning and a possible remedy.

I hope we can keep in contact on this and related subjects and do hope that you find the enclosed information responsive to your interest.

Sincerely,

SIGNED

George L. Cary
Legislative Counsel

Enclosures

Distribution:

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Central Intelligence Agency		DATE	14 July 1976
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September 1974

CIA SUBCOMMITTEES

SENATE APPROPRIATIONS

INTELLIGENCE OPERATIONS

John L. McClellan (D., Ark.), Chairman
John C. Stennis (D., Miss.) Milton R. Young (R., N. Dak.)
John O. Pastore (D., R. I.) Roman L. Hruska (R., Nebr.)

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O. C. Fisher (D., Texas) Bob Wilson (R., Calif.)

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Jamie L. Whitten (D., Miss.) William E. Minshall (R., Ohio)
Robert L. F. Sikes (D., Fla.) Elford A. Cederberg (R., Mich.)

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C

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On 4 June 1974 the Senate by a vote of 55 to 33 defeated an amendment to the Defense Procurement Authorization bill (S. 3000) which would have required the Director of Central Intelligence to submit an annual unclassified report to the Congress disclosing the total amount of funds requested in the budget for the National Intelligence Program.

A number of Senators, including the Chairman of the Agency's Oversight Committees in the Senate, strongly opposed the amendment on the basis that such disclosures would provide valuable assistance to our adversaries by virtue of the trends disclosed over the years and that the publication of the total figure would only stimulate further inquiry for greater detail on foreign intelligence activities, for explanations of changes or trends, and for the component elements of the total figure.

They also pointed out that the four committees charged with oversight of the Agency in the Congress are fully aware of the details of the foreign intelligence budget and inquire into these matters deeply. The point was also made that if any member of the Senate wished to know what the total figure was it would be furnished to him on a classified basis.

The discussion on the amendment is covered on pages S. 9601-9613 in the Congressional Record of 4 June 1974. Excerpts follow:

Then, we are an open society and, so far, we have been able to carry on an intelligence program effectively which has been worth to us billions and billions and billions of dollars in savings. But, if we are going to abandon the idea of keeping these figures from being disclosed, then, in my humble opinion, we might as well abolish the Agency. It would be like saying, in effect, that we do not want this secret intelligence after all, that we do not need it, and that we will abandon it.

We will pay an awful price for that. I am familiar with the CIA budget. I can satisfy most any Senator in the cloakroom, talking to him some about this, but I will publicly say that it is a clean budget and they have justified many times over the expenditure of the money. "

Senator Pastore: " . . . We have to know

what they are doing. So we can know what we have to do in order to guarantee the security of our own country.

So we cannot come out here and tell the whole world, "We spent \$1 billion or \$2 billion for the Central Intelligence Agency." What does that mean to anyone else, except that perhaps some people think they are spending too much. And the minute the question is asked where they are spending it we are in serious trouble.

So what happens to your children and my children, Mr. President? What happens to you when you go home tonight? What happens tomorrow? What happens to the security of our country? Can we afford to tell them? Oh yes, I would like to tell the public everything it is possible to tell them. I believe in that. I have been in public life continually for 40 years. I believe in the right of the public to know. But I certainly would not come to the floor of the Senate and tell you, Mr. President, how to put together an atom bomb. I would not tell you that. I would not tell you how far our nuclear subs are able to travel; I would not tell you how we can detect an enemy sub; and I would not tell you how they might detect ours. I would not tell you that. Why would I not tell you that? I would not tell you that because the minute I told you that I would jeopardize the future of your children.

I have sat down with the Senator from Wisconsin (Mr. Thompson), the Senator from California (Mr. Cameron), to find a solution, and I have sat down with Mr. Colby, who is a great American. He said, "Please do not do this. If you want to make my job easier, please do not do this." I cannot sit there after that admonition and exhortation and turn around and say, "Mr. Colby, I do not believe what you have to say." If I believed that for 1 minute, I would say, "You ought to give up your job."

Senator Humphrey: "

Mr. President, I like to commend the Senator from Rhode Island and to associate myself fully with his comments. The Senator pointed out very properly that the Central Intelligence Agency has in the past engaged in activities that have been looked upon by certain Members of the Congress as undesirable; but I want to make it clear that every one of those activities had been ordered by a President. The Central Intelligence Agency does not just engage in activities for the love of work. I know that the Central Intelligence Agency, during the Kennedy years and the Johnson years, was engaged in activities in Laos—

Mr. President, the Central Intelligence Agency is possibly the most important agency in this Government. By and large, it is made up of people who are competent, able, and who have served this country well and faithfully. To be sure, there are times when it has engaged in activities, as we have said, that are looked upon with suspicion; but I think it would be folly for us to publicize all of its activities, to publicize the amounts it receives, particularly when there are ways and means within this body and within the other body of Congress to supervise it and to keep a check rein upon it.

I had the privilege of serving on the National Security Council, and I want to tell my colleagues that the Central Intelligence Agency was the most accurate and effective instrument of Government for that council. Its reports were most accurate, and had we followed the advice of the Central Intelligence Agency in many areas, we would have been better off, but at least it was there.

But just as surely as we are in this body today debating whether or not we ought to have a release of the figure, next year it will be whether it is too big or too little, and then it will be what is in it. Then when we start to say what is in it, we are going to have to expose exactly what we have been doing in order to gain information; for example, years ago as to where the Soviet Union was building its nuclear sites and the kind of nuclear sites they were. I saw that material in 1945—how far they were along, what their scientific progress was. I do not think it would serve the public interest for all of that information to have been laid out. It would have destroyed our intelligence gathering completely.

Senator McClellan: ". . .

But, let us bear in mind that, if we are to have a security intelligence agency, we cannot have it with national publicity on what it does, how it does it, and how much it spends here, or how much it spends there. . . ."

Senator Stennis: ". . .

On my responsibility to my colleagues, they in CIA keep a clean house. They have had a conservative operation dollar-wise and have accounted for the money in a splendid way. That has been true without exception. There has been no great spillage of money or great extravagances, and not one bit of scandal or odor of any kind. . . ."

Senator Thurmond: ". . .

I believe that our Nation is unique in the attention its legislature has given to specifying and circumscribing the activities of the agency designated to perform its foreign intelligence missions. . . ."

Senator Proxmire: ". . .

Mr. President, the purpose of the amendment which I am offering now is to provide that the overall figure for the intelligence community as a whole, not broken down but the overall figure, would be made available, so that the taxpayers of this country would have some idea of how much, how many billions of dollars—and it is billions of dollars—are going for intelligence efforts by our Government.

Now just what would this tell our adversaries? They would not know if it all went to the CIA, or DIA. Whether the NSA spent most of the money, or the Air Force.

How about yearly fluctuations? Say for example, 1962 the budget went up 10 percent in 1 year. What what they conclude? That manpower was more expensive? That the CIA was spending more for Laos? That the DIA had bought a new computer division? That NSA was hiring more people? They would know nothing. . . ."

Senator Hughes: ". . .

The threat will come from losing control on the inside. If maintaining that control requires an ounce of risk, then I think we should be prepared to take that ounce of risk in at least letting us see publicly and the people see publicly whether we are spending \$3 billion, \$7 billion, or \$90 billion, and how we are concealing it and hiding it, and if we are protecting ourselves from the inside as well as from the outside.

I think that ounce of risk, if it exists, is worth taking, and I thank the distinguished Senator from Wisconsin for yielding. . . ."

Senator Jackson: ". . .

In summary, our foreign intelligence service arises out of an act of Congress and all of its activities are closely scrutinized by a number of representative members of both the Senate and the House of Representatives. This is how we have resolved the balance between the needs of an open society and the needs for a secret foreign intelligence service. I certainly do not think that this is the time to unbalance the situation as I am confident enactment of the proposed amendment would do.

Senator Young: ". . .

I know there is great interest in the public knowing everything possible, but I think there are some things that should be kept secret for our own security. "

§ 735. RULES OF THE HOUSE OF REPRESENTATIVES

Rule XI.

record vote is demanded. The result of each rollcall vote in any meeting of any committee shall be made available by that committee for inspection by the public at reasonable times in the offices of that committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those Members present but not voting. With respect to each record vote by any committee on each motion to report any bill or resolution of a public character, the total number of votes cast for, and the total number of votes cast against, the reporting of such bill or resolution shall be included in the committee report.

The first part of this paragraph was derived from Sec. 133(b) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and made part of the standing rules on January 3, 1953, p. 24. The requirements that committee roll calls be subject to public inspection and that the committee report on a public bill or resolution include the vote thereon, were added by Sec. 101(b) of the Legislative Reorganization Act of 1970 (94 Stat. 1140) and made a part of the rules on January 22, 1971, p. —, H. Res. 5.

Rule XI
27c

(c) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access to such records. Each com-

RULES OF THE HOUSE OF REPRESENTATIVES

Rule XI.

mittee is authorized to have printed and testimony and other data presented at hearing by the committee.

This provision from Sec. 202 (d) of the Legislative Reorganization Act of 1946 (60 Stat. 812) was made a part of the standing rules on January 3, 1953, p. 24.

(d)(1) It shall be the duty of the chairman of a committee to report or cause to be reported pro to the House any measure approved by his committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, the report of any committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request. This paragraph does not apply to a report of the committee on Rules with respect to the rules, rules, or order of business of the House or to reporting of a resolution of inquiry addressed to the head of an executive department.

(3) If, at the time of approval of any measure by any committee (except the Committee on Rules) any member of the committee, gives notice

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TASS Reports Colby Testimony on CIA actions in Chile

L231442 Moscow TASS in English 1550 GMT 23 Oct 73 L

(TEXT) WASHINGTON OCTOBER 23 TASS--FRESH FACTS HAVE BEEN LEARNED HERE ABOUT THE SUBVERSIVE ACTIVITY OF THE USA CENTRAL INTELLIGENCE AGENCY AGAINST SALVADOR ALLENDE'S POPULAR UNITY GOVERNMENT PRIOR TO SEPTEMBER ELEVENTH. THESE FACTS ARE CONTAINED IN THE TRANSCRIPT OF SECRET TESTIMONIES BY CIA DIRECTOR WILLIAM COLBY AND CIA SENIOR STAFF-MEMBER F. DAVIS AT THE INTER-AMERICAN AFFAIRS SUBCOMMITTEE OF THE HOUSE OF REPRESENTATIVES. A SUMMARY OF THE TESTIMONIES WAS PUBLISHED BY THE "WASHINGTON POST."

THE TESTIMONY OF THE CIA LEADERS SHOWS THAT THE DEPARTMENT CARRIED ON LARGE-SCALE SECRET INTERVENTION IN THE INNER-POLITICAL AND ECONOMIC AFFAIRS OF CHILE. THIS ACTIVITY, THE NEWSPAPER SAID, INCLUDED INFILTRATION INTO ALL PRINCIPAL POLITICAL PARTIES, SUPPORT OF ANTI-GOVERNMENTAL DEMONSTRATIONS AND ALIGNMENTS, SUBSIDIES FOR OPPOSITION PRESS ORGANS.

THE UNITED STATES, THE WASHINGTON POST GOES ON TO SAY, REFUSED CREDITS TO THE ALLENDE GOVERNMENT TO WRECK THE CHILEAN ECONOMY AND ALSO OBSTRUCTED THE GRANTING OF LOANS TO CHILE BY INTERNATIONAL FINANCIAL AGENCIES. THE ONLY EXCEPTION WAS MADE FOR THE SALE ON CREDIT OF AMERICAN WEAPONS TO THE CHILEAN ARMED FORCES. THUS, THE UNITED STATES SOUGHT TO SPEED UP THE ECONOMIC CRISIS IN THE COUNTRY AND TO ENCOURAGE INTERNAL OPPOSITION TO THE POPULAR UNITY GOVERNMENT.

THE TESTIMONY OF THE CIA DIRECTOR AND OTHER INFORMATION SHOW THAT THE UNITED STATES MAINTAINED CLOSE CONTACTS WITH THE CHILEAN MILITARY THROUGHOUT THE PERIOD FOLLOWING ALLENDE'S ELECTORAL VICTORY, THE NEWSPAPER SAYS.

THE WASHINGTON POST ADDS THAT THE CIA ALLOCATED 400,000 DOLLARS FOR SUPPORTING PRESS ORGANS OPPOSING ALLENDE ON THE EVE OF THE PRESIDENTIAL ELECTIONS.

23 OCT 1755Z JB/GS

The View From Langley

By Ted Szule

Szule is a Washington writer and a former foreign correspondent. His latest book is "Compulsive Spy: The Strange Career of E. Howard Hunt."

WAS THE United States, through the Central Intelligence Agency or otherwise, directly involved in the events that led to the bloody coup d'état in Chile last Sept. 11?

Actual involvement in the military revolution that ousted the late President Salvador Allende Gossens, a Socialist, has been roundly denied by the Nixon administration and the CIA in particular. But given the CIA's track record in overthrowing or attempting to overthrow foreign governments—Iran, Guatemala, the Bay of Pigs, Laos and so on—deep suspicions have persisted that the agency, operating under White House directives, has been much more than an innocent observer of the Chilean scene since Allende's election in 1970.

Ten days ago, the CIA rather surprisingly if most reluctantly, went quite a way to confirm many of these suspicions. It did so in secret testimony on Oct. 11 before the House Subcommittee on Inter-American Affairs by its director, William E. Colby, and Frederick D. Davis, a senior official in the agency's Office of Current Intelligence. The author of the testimony was not available to this writer by sources in the intelligence community.

The extensive testimony touches primarily on the CIA's own and very evident covert role in Chilean politics. It also helped in understanding and reconstructing the administration's handling of bringing about Allende's fall—by any or another.

What was apprised not only that the CIA estimate of the number of victims of the military government's repression was four times the official San Diego figure but that the United States, in effect, encouraged mass executions and

WASHINGTON POST
21 OCT 1973

war there remains "a real possibility." Yet, even Colby warned that the junta may "overdo" repression.

Colby's and Davis' testimony, in parts unclear and contradictory, offered a picture of the CIA's activities in Chile between Allende's election in 1970 and the Sept. 11 coup ranging from the "penetration" of all the major Chilean political parties, support for anti-regime demonstrations and financing of the opposition press and other groups to heretofore unsuspected Agency involvement in financial negotiations between Washington and Santiago in last 1972 and early 1973 when the Chileans were desperately seeking an accommodation.

There are indications that the CIA, acting on the basis of its own reports on the "deterioration" of the Chilean economic situation, was among the agencies counseling the White House to rebuff Allende's attempts to work out a settlement on the compensations to be paid for nationalized American property, and a renegotiation of Chile's \$1.7 billion debt to the United States.

A No-Help Policy

ACTUALLY, the basic U.S. posture toward Allende was set forth by Henry A. Kissinger, then the White House special assistant for national security affairs, at a background briefing for the press in Chicago on Sept. 16, 1970, 12 days after Allende won a plurality in the elections and awaited a run-off vote in Congress. Kissinger said then that if Allende were confirmed, a Communist regime would emerge in Chile and that Argentina, Bolivia and Peru might follow this example.

For the next three years, the U.S. policy developed along two principal lines. One was the denial of all credits to the Allende government—Washington even blocked loans by international institutions—to aggravate Chile's economic situation when Allende himself was bogging down in vast mismanagement of his own. The other line was the supportive CIA activity to accelerate the economic crisis and thereby encourage domestic opposition to Allende's Marxist Popular Unity government coalition.

The only exception to the ban on credits was the sale of military equipment to the Chilean armed forces—including the decision last June 5 to sell Chile F-4E jet fighter planes—presumably to signal United States support for the military. Colby's testimony as well as other information showed that the United States had maintained close contacts with the Chilean military after Allende's election.

The Nixon administration's firm re-

fusal to help Chile, even on humanitarian grounds, was emphasized about a week before the military coup when it turned down Santiago's request for credits to buy 300,000 tons of wheat here at a time when the Chileans had run out of foreign currency and bread shortages were developing.

On Oct. 5, however, the new military junta was granted \$24.5 million in wheat credits after the White House overruled State Department objections. The department's Bureau of Inter-American Affairs reportedly believed that such a gesture was premature and could be politically embarrassing.

An "Unfortunate" Coup

PARADOXICALLY, Washington had not hoped for the kind of bloody military takeover that occurred on Sept. 11. For political reasons, it preferred a gradual destruction from within of the Chilean economy so that the Allende regime would collapse of its own weight. The CIA's role, it appeared, was to help quicken this process.

Under questioning by Rep. Michael J. Harrington (D-Mass.), Colby thus testified that the CIA's "appraisal" of the Chilean economy was that "it was on a declining plane on the economic ground in terms of internal economic problems—inflation, with 522 per cent inflation in one year, the closure of the copper mines, and so forth, your total foreign deficit was more than the need for it. They couldn't support the food because their deficit was such that over the long term they had no base for it." Elsewhere in his testimony, Colby said that the CIA reported "accurately an overall assessment of deterioration" and that with the Chilean navy pushing for a coup, it was only a question of time before it came.

But Colby also told the subcommittee that "our assessment was it might be unfortunate if a coup took place. The National Security Council policy was that it is consistent with the feeling it is not in the United States interest to promote it." He made this comment after Rep. Charles W. Whalen (R-Ohio) asked Colby whether he agreed with earlier testimony by Jack Ruby, the assistant secretary of state for Inter-American affairs, that the administration believed that "it would be contrary to our own United States interest if the government of Chile were overthrown."

This theme was further developed in a memo on Oct. 11 from Richard A. Fagen, professor of political science at Stanford University, to Sen. J. William Fulbright, chairman of the Senate Foreign Relations Committee, reporting on a meeting between Ruby and a senior

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AVAILABLE

Association.

Colby said that Kubisch took the view that it was not in our interest to have the military take over in Chile. It would have been better had Allende remained in power for the entire term taking the nation and the Chilean people into complete and total ruin. Only then would the full "discrediting of socialism have taken place. Only then would people have gotten the message that socialism doesn't work. What has happened has confirmed this lesson."

"No Indication" of Support

COLBY'S TESTIMONY on the CIA's activities in Chile supplied a considerable amount of new information, some of it contradictory, under vigorous questioning by the subcommittee.

Thus at one point Colby said that "I can make a clear statement that certainly CIA had no connection with the coup itself, with the military coup. We didn't support it, we didn't stimulate it, we didn't bring it about in any way. We obviously had some intelligence coverage over the various moves being made but we were quite meticulous in making sure there was no indication of encouragement from our side."

Colby also insisted that the CIA was not involved with the prolonged strike by Chilean truckers that preceded the coup.

But pressed by Rep. Harrington, Colby acknowledged that the CIA may have assisted certain anti-Allende demonstrations. The following discussion ensued:

HARRINGTON: Did the CIA, directly or indirectly, assist these demonstrations through the use of subsidiaries of United States corporations in Brazil or other Latin American countries?

COLBY: I think I have said that the CIA did not assist the trucking strike.

HARRINGTON: I think it's a broader, and more intentionally broader, question—any of the demonstrations that are referred to in the course of this questioning.

COLBY: I am not quite sure of the scope of that question.

HARRINGTON: I make specific reference to one in the October period of 1970 and one in March of 1973.

COLBY: I would rather not answer the question. I can give you an assurance and be honest. Frankly, I would rather not. I don't want to be in a position of saying we didn't. But if we didn't, I really don't mind saying I don't know because it doesn't hurt. But I don't want to be in a position of giving you a false answer. Therefore, I don't want to just not answer that, although I frankly don't know the answer to that question right here.

"A Covert Operation"

THOUGH COLBY consistently refused to tell the subcommittee whether the CIA's operations in Chile had been authorized by the "40 Committee," the top secret group headed by Kissinger in the National Security Council that approves clandestine intelligence operations, he admitted that "we have had . . . various relationships over the years in Chile with various groups. In some cases this was approved by the National Security Council and it has meant some assistance to them. That has not fallen into the category we are talking about here — the turbulence or the military coup."

In previous testimony before a Senate subcommittee, former CIA Director Richard Helms disclosed that the CIA had earmarked \$400,000 to support anti-Allende news media shortly before his election. This was authorized by the "40 Committee" at a meeting in June, 1970. Colby, however, refused to say whether this effort was subsequently maintained, claiming that the secrecy of CIA operations had to be protected. He then became engaged in this exchange with Harrington:

COLBY: That does go precisely on to what we were operating and what our operations were. I would prefer to leave that out of this particular report . . . SEE TEXT

HARRINGTON: I think we have run exactly into what makes this a purposeless kind of exercise . . . SEE TEXT

COLBY: If I might comment, the presumption under which we conduct this type of operation is that it is a covert operation and that the United States hand is not to show. For that reason we in the executive branch restrict any knowledge of this type of operation very severely and conduct procedures so that very few people learn of any type of operation of this nature.

HARRINGTON: And we end up with a situation such as at Sept. 11 because you have a cozy arrangement.

Corporate Cooperation

ON THE QUESTION of support to anti-Allende forces by United States or Brazilian corporations, Colby and Davis gave equivocal answers to the subcommittee. Colby said, "I am not sure." Davis said, "I have no evidence as to that," but Colby interrupted him to remark that "I wouldn't exclude it. Frankly, I don't know of any. However, I could not say it didn't happen."

Subcommittee members pursued at some length the possible involvement by American corporations in the Chilean coup because of previous disclosures that the International Telephone and Telegraph Corp. had offered the CIA

money in 1970 to prevent Allende's election and subsequently proposed a detailed plan to plunge Chile into economic chaos.

Rep. Dante B. Fascell (D-Fla.), the subcommittee chairman, raised the question of involvement by Brazilian or other Latin American corporations, many of them subsidiaries of United States firms, because of reports that the anti-Allende moves were widely coordinated. Speaking for the CIA, Davis replied:

"There is some evidence of cooperation between business groups in Brazil and Chile. However, this is a small share of the financial support. Most of the support was internal. There is some funding and cooperation among groups with similar outlooks in other Latin American countries. This is true with regard to most of those governments . . . I was not thinking so much of companies or firms so much as groups, organizations of businessmen, chambers of commerce, and that kind of thing in a country such as Brazil."

Discussing the CIA's intelligence operations in Chile, Colby said he "would assume" that the Agency had contacts with Chileans opposed to Allende. Asked by Harrington whether the CIA maintained such contacts in social contexts, Colby said:

"If a gentleman talks to us under the assurance he will not be revealed, which can be dangerous in some countries, it could have been very dangerous for those in Chile . . . the protection of that relationship, fiduciary relationship with the individual, requires that I be very restrictive of that kind of information."

Then the following dialogue developed:

FASCELL: Is it reasonable to assume that the Agency has penetrated all of the political parties in Chile?

COLBY: I wish I could say yes. I cannot assure you all, because we get into some splinters.

FASCELL: Major?

COLBY: I think we have an intelligence coverage of most of them. Let's put it that way.

FASCELL: Is that standard operating procedure?

COLBY: It depends on the country. For a country of the importance of Chile to the United States' decision-making, we would try to get an inside picture of what is going on there. I can think of a lot of countries where we really don't spend much time worrying about their political parties. I spend much of my time worrying about penetrating the Communist Party of the Soviet Union.

Continued

The Economic Role

OF THE MOST intriguing disclosures made by Colby in his testimony was that the CIA is actively engaged in economic negotiations between the United States and foreign countries. This has not been generally known here, but Colby told the subcommittee that it would normally contribute to the negotiating team.

He said that "we would try to provide them intelligence as backdrop for their negotiations and sometimes help them with appreciation of the problem. . . . We follow the day-to-day progress in negotiation. If it's an important economic negotiation, like (Treasury) Secretary Schultz over in Nairobi and places like that, we would be informed of what they are doing and try to help them."

In the context of the Chilean-American negotiations before the coup, the CIA's Davis said that "we did have some quite reliable reporting at the time indicating that the Russians were advising Allende to put his relations with the United States in order, if not to settle compensation, at least to reach some sort of accommodation which would ease the strain between the two countries. There were reports indicating that, unlike the Cubans, they were in effect trying to move Allende toward a compromise agreement. . . . It was our judgment that the [Chileans] were interested in working out some kind of modus vivendi without, however, retreating substantially from their position."

Davis added that "our intelligence requirement in the negotiations between the United States and Chile would be to try to find out, through our sources, what their reactions to a negotiating session were, what their reading of our position was, what their assessment of the state of negotiations is."

In his narration of the events leading to the coup, Colby said that "under the general deterioration, it was only a matter of getting the Army, the Navy and the Air Force to cover it. Eventually they did get them all in." Colby also narrated the Chilean coup to the 1957 Indonesian revolution, reportedly assisted by the CIA, when the army ousted President Sukarno. He said the CIA fueled the suspicions of the Chilean military that Allende was plotting a coup of his own on Sept. 10 in order to take the armed forces, but said the CIA had no firm information confirming these suspicions.

"Concern Over Security"

THROUGHOUT his testimony, Colby drew a grim picture of the junta's repression and, in effect, predicted that it would worsen even more because of the continued strength of the Chilean left. His estimates of the death toll were roughly four times the figures announced by the junta and he told the subcommittee that the Chilean military had a list of the "most wanted" Allende followers whom they hoped to find and possibly execute.

"Communist Party chief Luis Corvalan is being or will be tried for treason. He may well be sentenced to death regardless of the effect on international opinion," Colby said. This information led to this exchange:

WHALEN: You mentioned those being accused of treason. Did these allegedly treasonable activities occur after the takeover by the military?

COLBY: I think what I referred to was the head of the Communist Party who would probably be tried for treason.

He would probably be tried for treason. He would probably be tried for activities prior to the takeover. You can have some question as to how valid that is in a constitutional legal sense. There have been some who have been accused of it since the takeover.

WHALEN: That confuses me. If he is tried for treason against a government [he] supported, I cannot understand that.

COLBY: You are right.

This was Colby's assessment of the present situation:

"Armed opposition now appears to be confined to sporadic, isolated attacks on security forces, but the regime believes that the left is regrouping for coordinated sabotage and guerrilla activity. The government probably is right in believing that its opponents have not been fully neutralized. Our reports indicate that the extremist movement of the Revolutionary Left believes its assets have not been damaged beyond repair. It wants to launch anti-government activity as soon as practical and is working to form a united front of leftist opposition parties. Other leftist groups, including the Communist and Socialist parties, are in disarray, but they have not been destroyed. Exiled supporters of the ousted government are organizing abroad, namely in Rome."

Colby told the subcommittee that "concern over security undoubtedly is what accounts for the junta's continued use of harsh measures to deal with

the dissidents. The military leaders apparently are willing to alienate some support at home and endure a bad press abroad, in order to consolidate their hold on the country and finish the job of rooting out Marxist influence."

Chance of "Civil War"

DESCRIBING the present situation, Colby said:

"Armed resisters continue to be executed where they are found, and a number of prisoners have been shot, supposedly while 'trying to escape.' Such deaths probably number 200 or more. Several thousand people remain under arrest, including high-ranking officials of the Allende government."

Answering questions, Colby agreed that the CIA's figure of more than 200 executions was higher than the junta's official estimate. He added that "there were a couple thousand, at least, killed during the fighting which surrounded the coup. It is quite possible that if you went to a city morgue you would find that number. The official figure of total killed is 476 civilians and 57 troops to a total of 533. We would guess, we would estimate, it is between 2,000 and 3,000 killed during the struggle. That would not be in my classification as execution. Some of those were shot down. There is no question about that. They are not just bystanders."

Colby disagreed, however, with Rep. Robert H. Steele (R-Conn.) that the junta killings have "done no one any good."

"I think our appreciation is that it does them some good. The junta, for their concern is whether they could take this action of taking over the government and not generate a real civil war, which was the real chance because the Allende supporters were fairly activist. There were armies in the country. There was at least a good chance of a real civil war occurring as a result of this coup," Colby said.

Asked whether civil war remained a possibility, Colby replied that "it was, it's obviously declining, but it was a real possibility. Yes, I think it is a real possibility. Whether it's a certainty or not is not at all sure."

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91st Congress, 2d Session

House Document No. 439

CONSTITUTION
JEFFERSON'S MANUAL
AND
RULES OF THE HOUSE OF
REPRESENTATIVES
OF THE UNITED STATES
NINETY-SECOND CONGRESS

By
LEWIS DESCHLER, J.D., M.P.L., LL.D.
PARLIAMENTARIAN



RULES OF THE HOUSE OF REPRESENTATIVES

§ 735.

Rule XI.

This clause was adopted December 8, 1931 (VIII, 2205), amended January 3, 1953, p. 24, and revised by the Legislative Reorganization Act of 1970 (84 Stat. 1140); H. Res. 5, January 22, 1971, p. —. This latter revision also added the requirement of open committee meetings in paragraph (f) of this clause.

A committee scheduled to meet on stated days, when convened on such day with a quorum present may proceed to the transaction of business regardless of the absence of the chairman (VIII, 2213, 2214).

A committee meeting being adjourned by the chairman for lack of a quorum, a majority of the members of the committee may not, without the consent of the chairman, call a meeting of the committee on the same day (VIII, 2213).

27. (a) The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day is a motion of

§ 735. Rules of Committee Procedure.

high privilege in committees and subcommittees. Committees shall adopt written rules not inconsistent with the Rules of the House and those rules shall be binding on each subcommittee of that committee. Each subcommittee of a committee is a part of that committee and is subject to the authority and direction of that committee.

This paragraph was adopted December 8, 1931 (VIII, 2215), amended March 23, 1953, pp. 3569, 3585, and January 22, 1971, p. —, when the House incorporated provisions of the Legislative Reorganization Act of 1970 (84 Stat. 1140) in the rules (H. Res. 5).

A committee may adopt rules under which it will exercise its functions (I, 707; III, 1811, 1812; VIII, 2214) and may appoint subcommittees (VI, 532), which should include majority and minority representation (IV, 4551), and confer on them powers delegated to the committee itself (VI, 532); but express authority has also been given subcommittees by the House (III, 1754-1759, 1901, 2409, 2504, 2508, 2517; IV, 4548).

(b) Each committee shall keep a complete record of all committee action. Such record shall include a record of the votes on any question on which a

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RULES OF THE HOUSE OF REPRESENTATIVES

§ 735.

Rule XI.

record vote is demanded. The result of each rollcall vote in any meeting of any committee shall be made available by that committee for inspection by the public at reasonable times in the offices of that committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those Members present but not voting. With respect to each record vote by any committee on each motion to report any bill or resolution of a public character, the total number of votes cast for, and the total number of votes cast against, the reporting of such bill or resolution shall be included in the committee report.

The first part of this paragraph was derived from Sec. 133(b) of the Legislative Reorganization Act of 1946 (60 Stat. 812) and made part of the standing rules on January 3, 1953, p. 24. The requirements that committee roll calls be subject to public inspection and that the committee report on a public bill or resolution include the vote thereon, were added by Sec. 104(b) of the Legislative Reorganization Act of 1970 (84 Stat. 1140) and made a part of the rules on January 22, 1971, p. —, H. Res. 5.

(c) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access to such records. Each com-

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Rule XI.

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Rule XI.

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RULES OF THE HOUSE OF REPRESENTATIVES

Rule XI.

§ 735.

mittee is authorized to have printed and bound testimony and other data presented at hearings held by the committee.

This provision from Sec. 202 (d) of the Legislative Reorganization Act of 1946 (60 Stat. 512) was made a part of the standing rules January 3, 1953, p. 24.

(d)(1) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House any measure approved by his committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, the report of any committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request. This subparagraph does not apply to a report of the Committee on Rules with respect to the rules, joint rules, or order of business of the House or to the reporting of a resolution of inquiry addressed to the head of an executive department.

(3) If, at the time of approval of any measure or matter by any committee (except the Committee on Rules) any member of the committee, gives notice of

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THE PROGRESSIVE
Nov. 1974

Criminal Negligence: Congress, Chile, and the CIA

JUDITH MILLER

Though political purists may bridle at the comparison, the late president of Chile, Salvador Allende, and the Democratic Senator from South Dakota, George McGovern, had much in common. Both aspired to the presidency of nations with long democratic traditions. Both publicly espoused a more equitable distribution of wealth and greater governmental control of giant corporations. Both were feared by the middle classes, who believed their own economic power and prestige would decline to the extent that the lot of the poor was improved. Most fundamentally, however, both were victims—targets of a White House-directed effort to prevent their election to office; targets of vast conspiracies to subvert the free election process through which citizens exercise the right of self-determination.

Many of the tactics brought into play in the Nixon Administration's secret intervention in the Chilean election of 1970 were also employed in the U.S. Presidential election two years later. The dirty tricks that Allende had managed to overcome—funding of opposition candidates, manipulation of the media, violations of individual privacy, illegal campaign contributions—all were components of the corruption now categorized in our national shorthand as "Watergate." What the United States unknowingly experienced in 1972, and ultimately exposed and repudiated two years later, was the "Chileanization" of American politics.

Although Congress has now seemed to repudiate such activities at home, it has not rejected their use in Chile or in other nations unfortunate enough to be considered even marginally significant to American

"national security." In the Watergate affair, Congress was compelled to begin impeachment proceedings against Richard M. Nixon for his orchestration of the White House coverup of illegal activities. In the case of Chile, however, the coverup of similar White House-inspired activities is being carried out by Congress itself.

By rejecting a thorough investigation of the Central Intelligence Agency's role in the "destabilization" of the Allende regime, Congress is adopting the Nixon technique of "stonewalling." Moreover, by refusing to conduct a broader investigation of the origins of the U.S. Government's anti-Allende policy, the Senate is abandoning its constitutional responsibility for advising and consenting to the Executive's foreign policies. Finally, through inaction, Congress is inviting another Watergate, a second round of domestic internalization of the cloak-and-dagger activities commonly deployed abroad by the American intelligence establishment. As Senator Frank Church, Idaho Democrat, warned six months before the CIA intervention in Chile was publicly disclosed, "Is it possible to insulate our constitutional and democratic processes at home from the kind of foreign policy we have conducted . . . a policy of almost uninterrupted cold war, hot war, and clandestine war?"

The Congressional effort to shield the CIA from public scrutiny in this case is all the more baffling in view of what CIA Director William Colby and President Ford have already acknowledged about covert CIA intervention in Chile. In the past, Congress could rely on its traditional rationale for unwillingness to exercise oversight: "The agency never fully briefs us; we did not

Judith Miller is The Progressive's Washington correspondent.

Ford, Secretary of State Henry Kissinger, the ranking members of the House and Senate Armed Services committees (who are responsible for overseeing covert CIA operations), and Congressional leaders held a two-hour meeting. Although the White House claimed, in proper diplomatic language, that the group had engaged in "full and frank" discussion of CIA covert activities in Chile and elsewhere, several sources report that the major topic of conversation was the danger supposedly posed to "the national interest" by such incidents as the Harrington leak, and the problem of safeguarding future "sensitive" testimony before legislative committees. "They really had a rope with Harrington's name on it," says one Capitol Hill source.

In briefings of top Congressional Republicans and the Senate Democratic Caucus, Kissinger also emphasized the importance of safeguarding delicate CIA testimony before Congressional committees.

The House demonstrated little enthusiasm for the kind of investigation Harrington had requested. Fascell, whose subcommittee had been holding innocuous hearings on Chile for a year, expressed no interest even in obtaining a transcript of Colby's actual testimony before the Nedzi oversight group. "That's not the way I want to run my subcommittee," Fascell told me.

There has been continuing interest, however, in identifying the source of the leak of Colby's testimony. On September 25, Harrington appeared before the Nedzi oversight subcommittee to testify about the leak of his letter. Although Harrington made it clear that he had volunteered to appear, subcommittee members made it equally clear that the panel had power to subpoena him if he were to refuse. Instead of discussing the substance of Harrington's complaints about the lack of oversight of the CIA, the subcommittee preferred, in closed session, to take up the issue of whether Harrington ought to be censured for citing details of Colby's secret testimony in confidential letters to Representatives and Senators ostensibly responsible for foreign affairs.

With one major exception, the Senate's reaction to the disclosures has closely paralleled that of the House. The exception, Senator Frank Church, is chairman of the Senate Foreign Relations Subcommittee on Multinational Corporations, whose hearings on the International Telephone and Telegraph Company's involvement in the 1970 Chilean elections had previously produced testimony revealing some degree of CIA cooperation with ITT efforts to prevent Allende's election. But Colby's April 22 testimony, as disclosed in the Harrington letter, clearly contradicted some of the testimony CIA and State Department officials had given during the Church subcommittee's hearings.

Incensed over the apparent discrepancies, Church announced he would turn over any "misleading" testimony to the Justice Department for investigation and possible perjury charges. He also said he would formally ask the full Foreign Relations Committee to review the testimony of the former CIA Director and the constitutionally elected Allende government. In addition,



Engelhardt in the St. Louis Post-Dispatch

'How Else Can We Protect Our Democratic Ideals If We Don't Beat The Commies At Their Own Game?'

tion, Church instructed the chief of his subcommittee staff, Jerome Levinson, to write a report based on a review of the apparently contradictory testimony.

Senator Fulbright, preoccupied in the last months of a lame duck term with hearings on Soviet-American detente, was less than eager to mount a full-fledged investigation of U.S. policy towards the former Allende government. Nevertheless, the revelations in the press forced the Foreign Relations Committee to take up the issue in secret session.

On the morning of the scheduled committee meeting, *The Washington Post* and *The New York Times* carried stories disclosing the recommendations of the confidential report Church had requested his subcommittee staff chief to prepare. The Levinson report recommended that a perjury investigation be initiated against former CIA Director Richard M. Helms. In addition, it accused Kissinger of having "deceived" the Foreign Relations Committee in sworn testimony about the scope and objective of CIA operations in Chile. The memo further questioned the testimony of the former Assistant Secretary of State for Inter-American Affairs, Edward M. Korry; and the former chief of the CIA's

sional oversight power of the intelligence agencies themselves (though Congress has rejected about 150 such efforts in the past). Senator Symington contends that the Senate's ability to ride herd on CIA covert activities has actually diminished over the years. When the late Senator Richard Russell, Georgia Democrat, was chairman of the Senate Armed Services Committee, Symington notes, high-ranking members of the Senate Foreign Relations Committee were occasionally invited to attend CIA oversight sessions. These invitations ceased, however, when Senator John Stennis, Mississippi Democrat, succeeded Russell as chairman, and oversight meetings became a rarity. As a result of this experience, many Senators believe that any oversight procedure must be written into legislation rather than remain dependent upon a "gentlemen's agreement."

The Administration, clearly, would prefer to head off legislation. Toward that end, Kissinger offered early in October to have Colby provide detailed briefings on future clandestine operations to the House Foreign Affairs Committee as well as to the Armed Services Committee. Whether Congress—and particularly the Senate—will be content with this arrangement remains to be seen. Representative Harrington dismissed it as "a small step for the Foreign Affairs Committee and a smaller step still for the cause of Congressional control over the CIA, but so far still more illusion than reality."

Proposals now pending range from one by Senator James Abourezk, South Dakota Democrat, who would abolish the CIA's covert operations branch, to a bipartisan plan to establish a fourteen-member joint Congressional oversight committee for all intelligence organizations. Senator Walter Mondale, Minnesota Democrat, has called for formation of a Select Committee on Intelligence, fashioned after the Select Committee on Emergency Powers, to study the most effective means of overseeing the intelligence community.

Ultimately, however, Congress is likely to do what it has done in the past—nothing. As the Chilean experience demonstrates, most Senators and Representatives—and certainly most of those in leadership positions—favor the maintenance of a U.S. capability for clandestine operations against foreign governments in general, just as they supported the intervention against Allende in particular.

Congress has had an excellent opportunity to conduct a searching inquiry of the American involvement in Chile and the foreign policy that encouraged such involvement. It has passed up that opportunity on the shopworn pretext that to pursue it might endanger "national security." Although a number of legislators criticized Ford's justification of the intervention in Chile, most accepted his rationale: all powerful nations conduct such shady operations; we spend less money on them than do others.

The United States spent only \$8 million to undermine the elected government of Chile. According to Ford's logic—logic that Congress accepts and tacitly supports—it was a cost-effective coup. □

F

94th CONGRESS
1st Session

S.

IN THE SENATE OF THE UNITED STATES

Mr. introduced the following bill; which was read twice
and referred to the Committee on Rules

BILL

To establish a Joint Committee on Central Intelligence, to
amend the National Security Act of 1947, and for other purposes.

1 Be it enacted by the Senate and the House of Representatives
2 of the United States of America in Congress assembled, that
3 ESTABLISHMENT OF JOINT COMMITTEE ON CENTRAL
4 INTELLIGENCE

5 SEC. 2. (a) There is hereby established a Joint Committee
6 on Central Intelligence (hereinafter referred to as the
7 "joint committee") which shall be composed of twelve members
8 appointed as follows:

1 (1) two members of the Committee on Armed
2 Services of the Senate;

3 (2) two members of the Committee on Foreign
4 Relations of the Senate;

5 (3) two members of the Committee on Government
6 Operations of the Senate;

7 (4) two members of the Committee on Armed
8 Services of the House of Representatives;

9 (5) two members of the Committee on Foreign
10 Affairs of the House of Representatives; and

11 (6) two members of the Committee on Government
12 Operations of the House of Representatives.

13 (b) The joint committee shall select a chairman and a vice
14 chairman from among its members at the beginning of each Congress.
15 The vice chairman shall act in the place instead of the chairman in the
16 absence of the chairman. The chairmanship shall alternate with each
17 Congress between the Senate and the House of Representatives, and the
18 chairman shall be selected by the joint committee members of the house
19 entitled to the chairmanship. The vice chairman shall be chosen from
20 the house other than that of the chairman by members of the joint
21 committee from that house.

22 (c) Vacancies in the membership of the joint committee shall

1 not effect the power of the remaining members to execute the
2 functions of the joint committee and shall be filled in the same
3 manner as in the case of an original selection.

4 (d) A majority of the members of the joint committee shall
5 constitute a quorum for the transaction of business, except that
6 the joint committee may fix a lesser number as a quorum for the
7 purpose of taking testimony.

8 DUTIES OF THE JOINT COMMITTEE

9 SEC. 3. (a) The joint committee shall make continuing studies of
10 the activities and operations of the Director of Central Intelligence and
11 the Central Intelligence Agency. The Director of Central Intelligence shall
12 keep the joint committee fully and currently informed with respect to all
13 his activities and those of the Central Intelligence Agency.

14 (b) All bills, resolutions, and other matters in the Senate or House
15 of Representatives relating to the Director of Central Intelligence and the
16 Central Intelligence Agency or to the foreign intelligence activities of the
17 United States Government shall be referred to the joint committee, and
18 except for the Appropriations Committees, the joint committee shall have
19 exclusive jurisdiction and access to information on the operations
20 of the Central Intelligence Agency, its programs and functions.

21 (c) Information obtained or furnished pursuant to this section
22 shall be subject to specific rules and instructions regarding

1 protection and further dissemination as established by the joint
2 committee. These rules and instructions shall take precedent² over
3 any other rules or instructions of the Senate or the House of
4 Representatives, with which they may conflict.

5 (d) The chairman and vice chairman of the joint committee or
6 their designees shall from time to time report to their respective
7 houses, by bill or otherwise, their recommendations with respect
8 to matters within the jurisdiction of the joint committee.

9 POWERS OF THE JOINT COMMITTEE

10 SEC. 4. (a) The joint committee, or any subcommittee
11 thereof, is authorized, in its discretion: to make expenditures; to
12 employ personnel; to hold hearings; to sit and act at any time or place;
13 to subpoena witnesses and documents; to take depositions and other
14 testimony; to use, on a reimbursable basis, the facilities and services
15 of personnel of the Central Intelligence Agency, with the prior consent
16 of said Agency; to procure printing and binding; to procure the
17 temporary or intermittent services of individual or organizational
18 consultants; and to provide for the training of its professional staff.

19 (b) Subpoenas may be issued over the signature of the chairman

1 of the joint committee or by any member designated by him or
2 the joint committee, and may be served by such person as may be
3 designated by such chairman or member. The chairman of the
4 joint committee or any member thereof may administer oaths to
5 witnesses. The provisions of sections 102 to 104 of the Revised
6 Statutes (2 U.S.C. 192-194) shall apply in the case of any failure
7 of any witness to comply with a subpoena to testify when summoned
8 under authority of this subsection.

9 CLASSIFICATION OF INFORMATION

10 SEC. 5. The joint committee may classify information
11 originating within the committee in accordance with standards
12 used generally by the executive branch of the Federal Government
13 for classifying defense information or other information relating to
14 the national security of the United States, including information
15 relating to intelligence sources and methods.

16 RECORDS OF THE JOINT COMMITTEE

17 SEC. 6. The joint committee shall keep a complete record
18 of all information it receives pursuant to section 3. All committee
19 records, data, charts and files shall be the property of the joint
20 committee and shall be kept in the office of the joint committee,
21 or such other places as the joint committee may direct,

1 under such security safeguards as the joint committee shall
2 determine to be in the interest of national security but not less than
3 the standards prescribed for the Executive branch.

4 EXPENSES OF JOINT COMMITTEE

5 SEC. 7. The expenses of the joint committee shall be paid
6 from the contingent fund of the Senate from funds appropriated for
7 the joint committee, upon vouchers signed by the chairman of the
8 joint committee or by any member of the joint committee
9 authorized by the chairman.

10 PROTECTION OF INTELLIGENCE SOURCES AND METHODS

11 SEC. 8. Section 102 of the National Security Act of 1947, as
12 amended, (50 U.S.C.A. 403) is further amended by adding the
13 following new subsection (g):

14 (g) In order further to implement the proviso of
15 section 102(d)(3) of this Act that the Director of Central
16 Intelligence shall be responsible for protecting intelligence
17 sources and methods from unauthorized disclosure--

18 (1) Whoever, being or having been in duly
19 authorized possession or control of information
20 relating to intelligence sources and methods, or
21 whoever, being or having been an officer or employee
22 of the United States, or member of the Armed Services

1 of the United States, or a contractor of the United States
2 Government, or an employee of a contractor of the United
3 States Government, and in the course of such relationship
4 becomes possessed of information relating to intelligence
5 sources and methods, knowingly communicates such information
6 to a person not authorized to receive it shall be fined not more
7 than \$5,000 or imprisoned not more than five years, or both;

8 (2) For the purposes of this subsection, the term
9 "information relating to intelligence sources and methods"
10 means information concerning

11 (a) methods of collecting foreign intelligence;

12 (b) all sources of foreign intelligence, whether
13 human, technical, or other; and

14 (c) methods and techniques of analysis and
15 evaluation of foreign intelligence

16 and which for reasons of national security, or in the interest
17 of the foreign relations of the United States, has been specifically
18 designated for limited or restricted dissemination or distribution,
19 pursuant to authority granted by law, Executive order, or
20 Directive of the National Security Council, by a department or
21 agency of the United States Government which is expressly
22 authorized by law or by the President to engage in intelligence
23 activities for the United States;

1 (3) A person not authorized to receive information relating
2 to intelligence sources and methods is not subject to prosecution as an
3 accomplice within the meaning of section 2 and 3 of Title 18, United
4 States Code, or to prosecution for conspiracy to commit an offense
5 under this subsection, unless he became possessed of the information
6 relating to intelligence sources and methods in the course of his relation-
7 ship with the United States Government;

8 (4) No prosecution shall be instituted under this subsection
9 unless, prior to the return of the indictment or the filing of the
10 information, the Attorney General and the Director of Central Intelligence
11 jointly certify to the court that the information was lawfully designated
12 for limited or restricted dissemination or distribution within the meaning
13 or paragraph (2) of this subsection at the time of the offense;

14 (5) It is an affirmative defense to a prosecution under this
15 subsection that the information was communicated only to a regularly
16 constituted subcommittee, committee, or joint committee of Congress,
17 pursuant to lawful demands;

18 (6) Whenever in the judgment of the Director of Central Intelligence
19 any person has engaged, or is about to engage, in any acts or practices
20 which constitute, or will constitute, a violation of this subsection, or
21 any rule or regulation issued thereunder, the Attorney General, on
22 behalf of the United States, may make application to the appropriate court
23 for an order enjoining such acts or practices, or for an order enforcing

1 compliance with the provisions of this subsection, and upon a showing
2 that such person has engaged, or is about to engage, in any such acts
3 or practices, a permanent or temporary injunction, restraining order,
4 or other order may be granted.

5 (7) In any judicial proceeding under this subsection, the
6 court may review, in camera, information relating to intelligence
7 sources and methods designated for limited or restricted dissemination
8 or distribution for the purpose of determining if such designation was
9 lawful and the court shall not invalidate the designation unless it
10 determines that the designation was arbitrary and capricious.

G

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

22 FEB 1974

Honorable John L. McClellan
Chairman, Committee on Appropriations
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

In your letter of 5 February 1974 you asked for my views on proposals made by Senator William Proxmire in a letter to you dated 30 January 1974 that the Intelligence Operations Subcommittee release an aggregate figure broken down by agency which indicates the total amount spent on intelligence by the U.S. yearly.

Senator Proxmire goes on to say he agrees that the release of manpower statistics and budgetary information that indicates the relative priorities of the intelligence community cannot be permitted. His basic purpose is to show to the American public the rough apportionment of intelligence dollars to defense and civilian agencies while fully protecting intelligence programs.

You will recall that on 27 July 1973 I responded to a similar request from you regarding the disclosure of the budget figures for the National Intelligence Program which I presented to the Subcommittee on 11 July 1973. I believe the considerations which I outlined in that letter still apply. I stated my view that disclosure of the total figure would not in and of itself present a security problem. I went on to explain, however, that I felt it would establish a precedent for the disclosure of this figure annually. If this were to occur, the annual fluctuations in our total intelligence effort would be revealed and it would not be in the national interest to disclose that kind of information to foreign nations.

I pointed out that such disclosure of total figures for all programs would reveal considerable information about the distribution of our intelligence resources among different types of intelligence activity and an annual update of those figures would provide insights into the changes and trends in our intelligence programs which could be damaging to intelligence sources and methods.

I am still concerned that public disclosure of total intelligence figures on an annual basis would lead to pressures for further public explanation of the programs for which the monies were appropriated. In my judgment this is the very kind of information which Senator Proxmire has indicated in his letter to you should not be released.

I feel that the final determination of how information on these funds should be handled within the Congress is a matter for the Congress to decide. I feel quite strongly, however, that because of the responsibility placed upon me by the Congress in the National Security Act of 1947 for the protection of intelligence sources and methods, I could not authorize the release of the figures which Senator Proxmire has proposed.

Sincerely,

W. E. Colby
Director

H



PROPOSED LEGISLATION

UNAUTHORIZED DISCLOSURE OF
INTELLIGENCE SOURCES AND METHODS

Approved For Release 2005/02/17 : CIA-RDP78M02660R000800100008-2
CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

23 April 1975

Honorable James T. Lynn, Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This submits proposed legislation in accordance with Office of Management and Budget Circular No. A-19, revised. Enclosed are six copies of a draft bill, "To amend the National Security Act of 1947, as amended." Also enclosed are copies of a sectional analysis, a comparison with existing law, cost analysis, and drafts of the letters of transmittal to the President of the Senate and the Speaker of the House of Representatives.

The proposed legislation amends Section 102 of the National Security Act of 1947 by adding a new subsection (g) defining "information relating to intelligence sources and methods" as a separate category of information to be accorded statutory recognition and protection similar to that provided "Restricted Data" under the Atomic Energy Act. The proposed law recognizes the authority of the Director of Central Intelligence and the heads of other agencies expressly authorized by law or by the President to engage in intelligence activities for the United States, to limit the dissemination of information related to intelligence sources and methods of collection. It provides for a criminal penalty for the disclosure of such information to unauthorized persons and for injunctive relief.

The continued effectiveness of the United States foreign intelligence collection effort is dependent upon the adequate protection of the intelligence sources and methods involved. In recognition of this, Congress, under Section 102(d)(3) of the National Security Act of 1947, made the Director of Central Intelligence responsible for the protection of intelligence sources and methods from unauthorized disclosure. Unfortunately, there is no statutory authority to implement this responsibility. In recent times, serious damage to our foreign intelligence effort has resulted from unauthorized disclosures of information related to intelligence sources and methods. The circumstances of these disclosures precluded punitive criminal action.



In most cases, existing law is ineffective in preventing disclosures of information relating to intelligence sources and methods. Except in cases involving communications intelligence, no criminal action lies unless the information is furnished to a representative of a foreign power or the disclosure is made with intent to harm the United States or aid a foreign power. Except in the case of knowingly furnishing classified information to either a foreign government or a foreign agent, prosecution requires proof, to the satisfaction of the jury, that the information affects the national defense within the meaning of the statute. This can only be established by further public disclosure in open court which may aggravate the damage to the security and intelligence interests of the United States and raises an additional obstacle to prosecution. The difficulties imposed by these burdens substantially reduce the effectiveness of the general criminal statutes as a deterrent to unauthorized disclosure of sensitive intelligence sources and methods information.

The proposed legislation is aimed solely at persons who are entrusted with information relating to intelligence sources and methods through a privity of relationship with the U. S. Government. A fully effective security program might require legislation to encompass the willful disclosures of information requiring protection by all persons knowing or having reason to know of its sensitivity. However, in order to limit the free circulation of information in our American society only to the degree essential to the conduct of a national foreign intelligence effort, this legislation proposes that prosecution be provided only for persons who have authorized possession of such information or acquire it through a privity of relationship to the Government. Other persons collaterally involved in any offense would not be subject to prosecution. Further, disclosures to Congress upon lawful demand would be expressly excluded from the provisions of the proposed law.

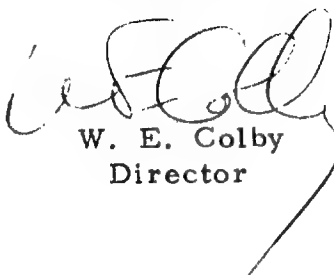
In order to provide adequate safeguards to an accused, while at the same time preventing damaging disclosures during the course of prosecution, subsection (g)(7) provides for an in camera determination by the court to decide as a question of law the validity of the designation for limited distribution of the information upon which prosecution is brought. Also, under subsection (g)(4), prior to court action, the Attorney General and the Director of Central Intelligence must certify that the information was lawfully designated for limited distribution,

the information was not placed in the public domain by the Government, and there existed a procedure whereby the defendant could have had the information reviewed for possible public release. Further under subsection (g)(4), it is an affirmative defense if the information was lawfully provided to a Committee of Congress, or if the defendant did not know or had no reason to know that the information had been specifically designated for limited distribution.

Finally, in order to prevent disclosures authority is provided in subsection (g)(6) for the courts to enjoin those to whom the proposed legislation otherwise applies upon the Attorney General's application and showing that the person is about to make an unauthorized disclosure.

Your advice is requested as to whether there is any objection to the submission of the proposed legislation to the Congress from the standpoint of the Administration's program.

Sincerely,



W. E. Colby
Director

Enclosures

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Bill

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A BILL

To amend the National Security Act of 1947, as amended, and for
other purposes.

1 Be it enacted by the Senate and House of Representatives of
2 the United States of America in Congress assembled, That
3 Section 102 of the National Security Act of 1947, as amended,
4 (50 U. S. C. A. 403) is further amended by adding the following
5 new subsection (g):

6 (g) In the interests of the security of the foreign
7 intelligence activities of the United States, and in order further
8 to implement the proviso of section 102(d)(3) of this Act that the
9 Director of Central Intelligence shall be responsible for
10 protecting intelligence sources and methods from unauthorized
11 disclosure--

12 (1) Whoever, being or having been in duly
13 authorized possession or control of information relating
14 to intelligence sources and methods, or whoever, being
15 or having been an officer or employee of the United States,
16 or member of the Armed Services of the United States,
17 or a contractor of the United States Government, or an
18 employee of a contractor of the United States Government,
19 and in the course of such relationship becomes possessed

1 of such information, knowingly communicates it to a
2 person not authorized to receive it shall be fined not
3 more than \$5,000 or imprisoned not more than five
4 years, or both;

5 (2) For the purposes of this subsection, the
6 term "information relating to intelligence sources and
7 methods" means sensitive information concerning--

8 (A) methods of collecting foreign
9 intelligence;

10 (B) sources of foreign intelligence,
11 whether human, technical, or other; or

12 (C) methods and techniques of analysis
13 and evaluation of foreign intelligence which,
14 in the interests of the security of the foreign
15 intelligence activities of the United States, has
16 been specifically designated for limited or restricted
17 dissemination or distribution, pursuant to authority
18 granted by law or Directive of the National Security
19 Council, by a department or agency of the United
20 States Government which is expressly authorized by
21 law or by the President to engage in intelligence
22 activities for the United States;

1 (3) A person who is not authorized to receive
2 information relating to intelligence sources and methods
3 is not subject to prosecution as an accomplice within
4 the meaning of sections 2 and 3 of Title 18, United States
5 Code, or to prosecution for conspiracy to commit
6 an offense under this subsection, unless he became
7 possessed of such information in the course of a relation-
8 ship with the United States Government as described in
9 paragraph (1); Provided, however, That the immunity
10 conferred by this paragraph does not preclude the
11 indictment or conviction for conspiracy of any person
12 who is subject to prosecution under paragraph (1)
13 of this subsection.

14 (4) No prosecution shall be instituted under
15 this subsection unless, prior to the return of the
16 indictment or the filing of the information, the Attorney
17 General and the Director of Central Intelligence jointly
18 certify to the court that at the time of the offense--

19 (A) the information was lawfully
20 designated for limited or restricted dissemination
21 or distribution within the meaning of paragraph
22 (2) of this subsection;

1 (B) the information had not been
2 placed in the public domain by the United States
3 Government; and

4 (C) there existed a review procedure
5 through which the defendant could obtain review,
6 by the Government agency described in paragraph (2)
7 of this subsection, of the necessity of continuing
8 the designation described in paragraph (2) of this
9 subsection in the interests of the security of the
10 foreign intelligence activities of the United States.

11 (5) It is an affirmative defense to a prosecution
12 under this subsection that--

13 (A) the information was communicated only
14 to a regularly constituted subcommittee, committee
15 or joint committee of Congress, pursuant to lawful
16 demand, or

17 (B) the person communicating the information
18 did not know or have reason to know that the information
19 had been specifically designated as described in
20 paragraph (2) of this subsection.

21 (6) Whenever in the judgment of the Director of
22 Central Intelligence any person is about to engage in any

1 acts or practices which will constitute a violation of
2 this subsection, the Attorney General, on behalf of
3 the United States, may make application to the appropriate
4 court for an order enjoining such acts or practices, and
5 upon a showing that such person is about to engage in
6 any such acts or practices, a permanent or temporary
7 injunction, restraining order, or other order may be
8 granted.

9 (7) In any judicial proceedings under this
10 subsection, the court--

11 (A) may review, in camera, information
12 relating to intelligence sources and methods
13 designated for limited or restricted dissemination
14 or distribution within the meaning of paragraph (2)
15 of this subsection for the purpose of determining if
16 such designation was lawful and the court shall not
17 invalidate the designation unless it determines that
18 the designation was arbitrary and capricious. The
19 determination of the validity of such designation
20 under the circumstances is a question of law;

21 (B) in any in camera review, may in
22 its discretion, require the presence of all parties

1 or their attorneys and production of a record
2 of the proceedings;
3 (C) shall, at the close of the in camera
4 review, enter in the record an order pursuant to
5 its findings and determination.

SECTIONAL ANALYSIS AND EXPLANATION

The draft bill by adding a new subsection (g) to the National Security Act of 1947 further implements a proviso of that Act imposing a duty upon the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure. Where possible, the new subsection is based upon existing provisions of law specifically 18 U. S. C. 798 (relating to communication intelligence) and 42 U. S. C. 2204 et seq. (relating to atomic energy Restricted Data).

Paragraph (1) of the new subsection identifies the special and limited class of individuals having privity of access to the sensitive information defined in paragraph (2) below and proscribes their culpable communication of such information to an unauthorized recipient.

Paragraph (2) of the new subsection defines the special category of information relating to intelligence sources and methods which is subject to the new provisions. It also recognizes the authority of the Director and heads of other agencies expressly authorized by law or by the President to engage in intelligence activities for the United States, to provide for the appropriate designation of such information.

Paragraph (3) of the new subsection assures that only the special and limited class of individuals identified under paragraph (1) above will be subject to prosecution as a result of the violation of the new subsection. This is in keeping with the intent that the new provision penalizes as

unlawful only the conduct of those whose access to the designated information is dependent upon understandings arising out of a relationship involving trust and confidence. Collateral prosecution related to the violation of any other provision of law, however, is not vitiated by this paragraph.

Paragraph (4) of the new subsection provides that no prosecution shall be instituted unless the Attorney General and the Director of Central Intelligence first jointly certify to the court that the information was lawfully designated for limited dissemination; the information was not placed in the public domain by the Government; and a review procedure existed whereby the defendant could have secured a review of the information in question for a determination on public releasability.

Paragraph (5) of the new subsection provides an affirmative defense to prosecution if the information was provided to a congressional committee pursuant to law or the person communicating the information did not know or have reason to know, that the information had been designated for limited dissemination pursuant to paragraph (2).

Paragraph (6) of the new subsection permits the Attorney General to petition a court for the injunction of any act which the Director believes will violate any provision of the new subsection. This authority is intended to provide prompt judicial action to avoid damage to the U. S. foreign intelligence effort in circumstances where punitive criminal action alone, being necessarily ex post facto, may be inadequate in achieving the underlying objective of the legislation which is to protect intelligence sources, methods

and techniques from unauthorized disclosure.

Paragraph (7) of the new subsection provides for judicial review as a question of law of the validity of any designation made pursuant to paragraph (2) above. This will ensure that the designation is not applied arbitrarily or capriciously. It provides that the judicial review may be conducted in camera, with all parties and counsel present at the court's discretion, to preclude the disclosure of sensitive information in open court and avoid aggravating the damage to intelligence sources and methods.

CHANGES IN EXISTING LAW

Changes in existing law made by the draft bill are shown as follows: existing law in which no change is proposed is shown in roman; new matter is underscored.

NATIONAL SECURITY ACT OF 1947
as amended
(50 U. S. C. A. 403)

* * * *

TITLE I--COORDINATION FOR NATIONAL SECURITY

* * * *

CENTRAL INTELLIGENCE AGENCY

SEC. 102

* * * *

(g) In the interests of the security of the foreign intelligence activities of the United States, and in order further to implement the proviso of section 102(d)(3) of this Act that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure--

(1) Whoever, being or having been in duly authorized possession or control of information relating to intelligence sources and methods, or whoever, being or having been an officer or employee of the United States, or member of the Armed Services of the United States, or a contractor of the United States Government, or an employee of a contractor of the United States Government, and in the course of such relationship becomes possessed of such information, knowingly communicates it to a person not authorized to receive it shall be fined not more than \$5,000 or imprisoned not more than five years, or both;

(2) For the purposes of this subsection, the term "information relating to intelligence sources and methods" means sensitive information concerning--

(A) sources of foreign intelligence, whether human, technical, or other;

(B) methods of collecting foreign intelligence; or

(C) methods and techniques of analysis and evaluation of foreign intelligence which, in the interests of the security of the foreign intelligence activities of the United States, has been specifically designated for limited or restricted dissemination or distribution, pursuant to authority granted by law or Directive of the National Security Council, by a department or agency of the United States Government which is expressly authorized by law or by the President to engage in intelligence activities for the United States;

(3) A person who is not authorized to receive information relating to intelligence sources and methods is not subject to prosecution as an accomplice within the meaning of sections 2 and 3 of Title 18, United States Code, or to prosecution for conspiracy to commit an offense under this subsection, unless he became possessed of such information in the course of a relationship with the United States Government as described in paragraph (1); Provided, however, That the immunity conferred by this paragraph does not preclude the indictment or conviction for conspiracy of any person who is subject to prosecution under paragraph (1) of this subsection.

(4) No prosecution shall be instituted under this subsection unless, prior to the return of the indictment or the filing of the information, the Attorney General and the Director of Central Intelligence jointly certify to the court that at the time of the offense--

(A) the information was lawfully designated for limited or restricted dissemination or distribution within the meaning of paragraph (2) of this subsection:

(B) the information had not been placed in the public domain by the United States Government; and

(C) there existed a review procedure through which the defendant could obtain review, by the Government agency described in paragraph (2) of this subsection, of the necessity of continuing the designation described in paragraph (2) of this subsection in the interests of the security of the foreign intelligence activities of the United States.

(5) It is an affirmative defense to a prosecution under this subsection that--

(A) the information was communicated only to a regularly constituted subcommittee, committee or joint committee of Congress, pursuant to lawful demand, or

(B) the person communicating the information did not know or have reason to know that the information had been specifically designated as described in paragraph (2) of this subsection.

(6) Whenever in the judgment of the Director of Central Intelligence any person is about to engage in any acts or practices which will constitute a violation of this subsection, the Attorney General, on behalf of the United States, may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing that such person is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

(7) In any judicial proceedings under this subsection, the court--

(A) may review, in camera, information relating to intelligence sources and methods designated for limited or restricted dissemination or distribution within the meaning of paragraph (2) of this subsection for the purpose of determining if such designation was lawful and the court

shall not invalidate the designation unless it determines that the designation was arbitrary and capricious. The determination of the validity of such designation under the circumstances is a question of law;

(B) in any in camera review, may in its discretion, require the presence of all parties or their attorneys and production of a record of the proceedings;

(C) shall, at the close of the in camera review, enter in the record an order pursuant to its findings and determination.

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Senate and House
Transmittal Letters

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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

Honorable Nelson A. Rockefeller
President of the Senate
Washington, D. C. 20510

Dear Mr. President:

This letter transmits for the consideration of the Congress a draft bill to amend the National Security Act of 1947, as amended.

Over the years, serious damage to our foreign intelligence effort has resulted from the unauthorized disclosure of information related to intelligence sources and methods. In most cases, the sources of these leaks have been persons who were made privy to sensitive information by virtue of their relationship of trust to the United States Government. Deliberate breach of this relationship of trust to the detriment of the United States Government is subject only to partial legal sanction. In most instances prosecution lies only if the offender makes the unauthorized disclosure to a representative of a foreign power or the prosecution must show an intent to harm the U.S. or aid a foreign power. Moreover, in many instances the requirement to reveal in open court the significance of information disclosed is a deterrent to prosecution.

Presently, Section 102(d)(3) of the National Security Act of 1947, as amended, places a responsibility on the Director of Central Intelligence to protect intelligence sources and methods. However, no legal sanctions are provided for him to implement this responsibility. The legislation proposed in this draft bill would close this gap to the limited degree necessary to carry out a foreign intelligence program, but at the same time give full recognition to our American standards of freedom of information and protection of individual rights.

The proposed legislation recognizes the authority of the Director of Central Intelligence, and the heads of other agencies expressly authorized by law or by the President to engage in intelligence activities for the United States, to limit dissemination of information related to intelligence



sources and methods of collection and provides criminal penalty for the disclosure of such information to unauthorized persons.

The proposed legislation is limited to individuals entrusted with the sensitive information described in the legislation by virtue of their position as officer, employee, contractor, or other special relationship with the U. S. Government. Strictly from the standpoint of protecting the information, this legislation ideally would encompass willful disclosure to unauthorized persons by any person knowing, or having reason to know of its sensitivity. However, our American tradition would not permit a law sufficiently broad to apply to the media or other private citizens. Hence, application of the proposed legislation is limited to those given access to the information by virtue of their relationship to the Government.

In order to provide adequate safeguards to an accused, to prevent damaging disclosures during the course of prosecution, and to prevent prosecution with respect to information unreasonably designated, the legislation provides for in camera review by the court of the information disclosed to review and decide as a question of law the validity of the designation for limited distribution. Further, prior to court action, the Attorney General and the Director of Central Intelligence must certify that the information was lawfully designated for limited distribution, the information was not placed in the public domain by the Government, and there existed a procedure whereby the defendant could have had the information reviewed for possible public release. It is also an affirmative defense if the information was provided to a committee of Congress pursuant to law or if the defendant had no reason to know that the information was designated for limited distribution.

The legislation also provides for injunctive relief in those instances where unauthorized disclosure is threatened and serious damage to the intelligence collection effort would result.

We would appreciate early and favorable consideration of the proposed bill. The Office of Management and Budget has advised that there is no objection to presenting the proposed bill to the Congress from the standpoint of the Administration's program.

Sincerely,

W. E. Colby
Director

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

Honorable Carl Albert
Speaker of the House of Representatives
Washington, D. C. 20515

Dear Mr. Speaker:

This letter transmits for the consideration of the Congress a draft bill to amend the National Security Act of 1947, as amended.

Over the years, serious damages to our foreign intelligence effort have resulted from the unauthorized disclosure of classified information related to intelligence sources and methods. In most cases, the sources of these leaks have been persons who were made privy to sensitive information by virtue of their relationship of trust to the United States Government. Deliberate breach of this relationship of trust to the detriment of the United States Government is subject only to partial legal sanction. In most instances prosecution lies only if the offender makes the unauthorized disclosure to a representative of a foreign power or the prosecution must show an intent to harm the U. S. or aid a foreign power. Moreover, in many instances the requirement to reveal in open court the significance of information disclosed is a deterrent to prosecution.

Presently, Section 102(d)(3) of the National Security Act of 1947, as amended, places a responsibility on the Director of Central Intelligence to protect intelligence sources and methods. However, no legal sanctions are provided for him to implement this responsibility. The legislation proposed in this draft bill would close this gap to the limited degree necessary to carry out a foreign intelligence program, but at the same time give full recognition to our American standards of maximum feasible freedom of information and protection of individual rights.

The proposed legislation grants to the Director of Central Intelligence, and to the heads of other agencies expressly authorized by law or by the President to engage in intelligence activities for the United States, the authority to limit dissemination of information related



to intelligence sources and methods of collection and provides criminal penalty for the disclosure of such information to unauthorized persons.

The proposed legislation is limited to individuals entrusted with the sensitive information described in the legislation by virtue of their position as officer, employee, contractor, or other special relationship with the U. S. Government. Strictly from the standpoint of protecting the information, this legislation ideally would encompass willful disclosure to unauthorized persons by any person knowing, or having reason to know of its sensitivity. However, our American tradition would not permit a law sufficiently broad to apply to the media or other private citizens. Hence, application of the proposed legislation is limited to those given access to the information by virtue of their relationship to the Government.

In order to provide adequate safeguards to an accused, to prevent damaging disclosures during the course of prosecution, and to prevent prosecution with respect to information unreasonably designated, the legislation provides for in camera review by the court of the information disclosed to review and decide as a question of law the reasonableness of the designation for limited distribution. Further, prior to court action, the Attorney General and the Director of Central Intelligence must certify that the information was lawfully designated for limited distribution, the information was not placed in the public domain by the Government, and there existed a procedure whereby the defendant could have had the information reviewed for possible public release. It is also an affirmative defense if the information was provided to a committee of Congress pursuant to law or if the defendant had no reason to know that the information was designated for limited distribution.

The legislation also provides for injunctive relief in those instances where unauthorized disclosure is threatened and serious damage to the intelligence collection effort would result.

We would appreciate early and favorable consideration of the proposed bill. The Office of Management and Budget has advised that there is no objection to presenting the proposed bill to the Congress from the standpoint of the Administration's program.

Sincerely,

W. E. Colby
Director

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Cost Analysis

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COST ANALYSIS

This legislation does not involve any measurable costs. Any court costs to the Government would be more than offset by the savings that would result if the legislation deters the compromise of sensitive sources and methods which, if compromised, would require extensive and costly counteractions to mitigate the damage and to offset the advantages to the opposition.

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STATUTES AFFECTING DISCLOSURE

18 U. S. C. 793 - Espionage laws - Criminal penalty for obtaining, copying, communicating national defense information.

18 U. S. C. 794 - Espionage laws - Criminal penalty for gathering or delivering defense information to aid foreign governments.

18 U. S. C. 798 - Criminal penalty for disclosure of any classified information prejudicial to U. S.

18 U. S. C. 952 - Criminal penalty for unauthorized publishing or transmittal to another of diplomatic codes and correspondence.

35 U. S. C. 186 - Criminal penalty for disclosure of patented information.

42 U. S. C. 2161-2166 - Atomic Energy Commission authority to protect Restricted Data.

47 U. S. C. 154 - Federal Communication Commission can withhold secret information affecting the national defense.

50 U. S. C. 141 - Criminal penalty for disclosure of information on manufacturing and distribution of explosives in connection with the national defense.

50 U. S. C. 403 - Director of Central Intelligence - protection of intelligence sources and methods.

50 U. S. C. 783b - Unlawful for government employees to communicate classified information to representatives of foreign governments

50 U. S. C. 783d - Criminal penalty for violation of 50 U. S. C. 783b.

50 U. S. C. Appendix 2026 - Prohibits unauthorized disclosure of confidential information on export controls.

5 U. S. C. 1396 - Employees of agency to which classified information is transferred are subject to the same disclosure restrictions as the transferor agency.

7 U. S. C. 135f - Criminal penalty for fraudulent disclosure of insecticide formulas.

7 U. S. C. 472 - Department of Agriculture - criminal penalty for unauthorized disclosure of cotton statistics and estimates.

7 U. S. C. 507 - Prohibits unauthorized disclosure of tobacco statistics.

7 U. S. C. 608d - Criminal penalty for unauthorized disclosure of information regarding payments under marketing agreements.

7 U. S. C. 955 - Prohibits unauthorized disclosure of peanut statistics.

8 U. S. C. 1202 - Visa information declared confidential.

12 U. S. C. 77 - Information regarding removal of a bank director by the Comptroller of the Currency shall not be disclosed.

13 U. S. C. 214 - Criminal penalty for disclosure of confidential information by Census Bureau employees.

15 U. S. C. 78x - Unlawful for employees of Securities and Exchange Commission to disclose information not made available to the general public.

15 U. S. C. 176a - Protects information of Bureau of Foreign and Domestic Commerce.

15 U. S. C. 717g - Prohibits unauthorized disclosure by employees of Federal Power Commission.

18 U. S. C. 605 - Criminal penalty for unauthorized disclosure of names of persons on relief for political purposes.

18 U. S. C. 1902 - Criminal penalty for unauthorized disclosure of crop information by U. S. government employee.

18 U. S. C. 1904 - Criminal penalty for unauthorized disclosure of Reconstruction Finance Corporation information.

18 U. S. C. 1905 - Criminal penalty for unauthorized disclosure of confidential information generally by U. S. Government employees.

18 U. S. C. 1906 - Criminal penalty for unauthorized disclosure of information by bank examiners.

18 U. S. C. 1907 - Criminal penalty for unauthorized disclosure of information by farm credit examiners.

18 U. S. C. 1908 - Criminal penalty for unauthorized disclosure of information by national agricultural credit corporation examiners.

26 U. S. C. 7213 - Criminal penalty for unauthorized disclosure of income tax information by U. S. Government or state employees; Criminal penalty for unauthorized disclosure of corporation financial statement by shareholders; Criminal penalty for unauthorized disclosure of operations of a manufacturer by U. S. Government employee.

38 U. S. C. 3301 - Veterans Administration files are confidential.

42 U. S. C. 1306 - Criminal penalty for unauthorized disclosure of certain information in possession of the Department of Health, Education and Welfare.

50 U. S. C. 2160 - Criminal penalty for unauthorized disclosure of confidential information by U.S. Government employee for purpose of commodity speculation.

5 U. S. C. 637 - Criminal penalty for unauthorized disclosure by Civil Service Commission employee regarding employment applicant.

35 U. S. C. 122 - Protection of patent applications.

7 U. S. C. 1159 - Protection of sugar information by Secretary of Agriculture.

26 U. S. C. 7237 - Criminal penalty for unauthorized disclosure of narcotics information.

39 U. S. C. 762 - Protection of postal savings depository fund information.

42 U. S. C. 260 - Protection of information regarding voluntary hospital commitment of narcotics addicts.

45 U. S. C. 362 - Protection of certain Railroad Retirement Board information.

46 U. S. C. 234 - Penalty of dismissal for any Coast Guard employee disclosing information on ship defects.

46 U. S. C. 643 - Protection of Coast Guard information on discharge of seamen.

46 U. S. C. 819 - Unlawful for common carrier to disclose confidential information to detriment of any other carrier.

47 U. S. C. 220 - Protects information from records examined by employees of the Federal Communication Commission.

47 U. S. C. 605 - Prohibits unauthorized publication or use of interstate or foreign communications.

48 U. S. C. 55 - Protects certain public voting information.

49 U. S. C. 15 - Protects certain information concerning shipments by common carrier.

49 U. S. C. 320 - Protects certain information of the Interstate Commerce Commission.

50 U. S. C. 139 - Protects certain information of the Bureau of Mines.

50 U. S. C. Appendix 327 - Criminal penalty for unauthorized disclosure of Selective Service information.

50 U. S. C. Appendix 1152 - Criminal penalty for unauthorized disclosure of certain information regarding acquisition of vessels.

50 U. S. C. Appendix 1896 - Protects certain housing and insurance information.

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PREPARED STATEMENT ON H. R. 15845
BY
WILLIAM E. COLBY, DIRECTOR OF CENTRAL INTELLIGENCE

22 July 1974

Mr. Chairman, I welcome the opportunity to testify today on H. R. 15845 introduced by you and Mr. Bray. The amendments proposed in this bill would be the first changes in the charter of the Central Intelligence Agency, found in the National Security Act of 1947. In conformity with our American constitutional structure, the existence of the Central Intelligence Agency stems from an Act of Congress. This is a unique contrast to the tradition and practice of most intelligence services, but it is a necessary reflection of our free society. The result, I believe, makes us a stronger nation, whose citizens live in a freedom envied by most of the world.

The amendments would add the word "foreign" before the word "intelligence" whenever it refers to the activities authorized to be undertaken by the Central Intelligence Agency. I fully support this change. While I believe the word "intelligence" alone in the original Act was generally understood to refer only to foreign intelligence, I concur that this limitation of the Agency's role to foreign intelligence should be made crystal clear to its own employees and to the public. I hope this amendment will reassure any of our fellow citizens as to the Agency's true and only purpose.

Section (3) of the bill reenforces the charge in the original Act that the Director of Central Intelligence shall be responsible for "protecting

intelligence sources and methods from unauthorized disclosure." The amendment states that pursuant to this responsibility, the Director shall develop appropriate plans, policies and regulations but such responsibility shall not be construed to authorize the Agency to engage in any police, subpoena, law enforcement or internal security activities, and that any information indicating a violation of the Director's plans, policies and regulations, should be reported to the Attorney General for appropriate action.

This amendment conforms to my own understanding of the meaning of the original statutory language. As I said in my confirmation hearing, I believe that the original Act gives the Director a charge but does not give him commensurate authority. Under existing law, the Director is responsible for developing such internal administrative controls as are possible and appropriate to protect against unauthorized disclosure, but if such a disclosure is identified, his only recourse beyond internal disciplinary action, including termination of an employee, would be to report the matter to appropriate authorities for examination of possible legal action. As you are aware, Mr. Chairman, the Government did take legal action with respect to one of our ex-employees who declined to abide by the agreement he made when he joined CIA to protect the confidential information to which he would be exposed.

Mr. Chairman, I fully agree with this clarification of the precise nature of the charge on the Director to protect intelligence sources and

methods against unauthorized disclosure. As you know, I am of the personal opinion that additional legislation is required on this subject to improve our ability to protect intelligence sources and methods against unauthorized disclosure. The contract theory on which the previously mentioned litigation is based is indeed a very slender reed upon which to rely in all cases. My views on this subject became known publicly as a result of that case and the specifics of my recommendations on this subject are still under active consideration within the Executive Branch, so that an appropriate Executive Branch recommendation can be made to the Congress.

The bill would also require that the Agency report to the Congress "in accordance with such procedures as the Congress may establish" on those "other functions and duties related to[foreign]intelligence affecting the national security as the National Security Council may from time to time direct." The National Security Act authorized the National Security Council to direct the Agency to conduct a number of foreign intelligence activities which by their nature must remain secret. The Act made clear, however, that these functions and duties could only stem from a specific direction by the National Security Council rather than being determined by the Agency itself. The amendments do not change this situation but add the requirement of reporting to Congress.

Mr. Chairman, at present the Agency reports to the Congress about its activities in a number of ways. On certain matters the Agency reports

publicly, such as in this hearing and in my own confirmation hearings. The Agency further identifies for public release a number of matters affecting it or resulting from its efforts. A recent example was the publication of testimony on the economies of the Soviet Union and China provided to the Joint Economic Committee and published on July 19th with only a few deletions which related to intelligence sources and methods.

The second area in which the Agency reports to Congress is in its assessments of foreign situations. The Agency briefs appropriate committees of the Congress in executive session, using the most sensitive material available, thus providing the Congress the fruits of the intelligence investment made by the United States. I believe this type of reporting is particularly important, as I hope to make our intelligence of maximum service to the nation as a whole, and this can only take place if it can assist those in the Congress who share in the American decision-making process under our Constitution. The Appropriations Committees, the Armed Services Committees, the Foreign Affairs and Foreign Relations Committees, the Joint Committee on Atomic Energy, and others have been the recipients of this kind of material. Again, to the extent possible, information provided and discussed in these executive sessions is later screened for publication. In many cases the sensitivity of the sources and methods involved does not permit such publication, but the classified transcript of the briefing can be made available to the members of Congress.

The third area in which the Agency reports to Congress concerns its operations. Pursuant to long-established procedures of the Congress, reports on these matters, including the most sensitive details, are provided only to the Intelligence Subcommittees of the Armed Services and Appropriations Committees of each House. Mr. Chairman, there are literally no secrets withheld from these Subcommittees. In fact, I believe I have more than a duty to respond to them; I must undertake the positive obligation to volunteer to these Subcommittees all matters of possible interest to the Congress. As you know, these reports cover our annual budget, the details of our activities, and problems which may have arisen in some regard or other.

The procedures established by the Congress for this reporting have worked well. Large numbers of highly sensitive matters have been revealed to these Subcommittees over the years, and their classification has been respected. I am also aware of the sense of responsibility of the members of the Congress as a whole with respect to matters which must remain highly classified because of their sensitivity. Thus, I am confident that congressional procedures in the future will be as effective as those of the past and I welcome the codification of this relationship in the proposed amendment which requires the Agency to report to the Congress.

Mr. Chairman, the bill also reenforces the proscription in the original Act against police, subpoena, law enforcement powers or internal security functions. I wish I could say that this clarification was not necessary but as you know, Mr. Chairman, I have frankly admitted that the Agency did make some mistakes in recent years in this area. Your own report of the investigations of this Subcommittee dealt with those incidents. The Congress has, in Public Law 93-83 of August 6, 1973, made clear that the CIA may not provide help to the Law Enforcement Assistance Administration in assisting local police and law enforcement agencies of the states and municipalities. The language of the bill would go further in this regard and prohibit the Agency from engaging directly or indirectly in the above type of activities within the United States either on its own or in cooperation or conjunction with any other department, agency, organization or individual. This would restrict our collaboration with the FBI to the field of foreign intelligence or counterintelligence. It may also limit the degree of assistance the Agency could provide to the Secret Service, under the Secret Service Act, which authorizes it to call upon the assistance of any other agency of the Government to assist it in its mission (Public Law 90-331). While this amendment might restrict certain of our activities of the past which were not in any way reprehensible, I believe that its enactment at this time would be an appropriate way of clarifying the purpose of the Agency as related only to foreign intelligence.

I do note that the bill contains a proviso in this area which I believe is both appropriate and essential to the proper functioning of the Agency.

This makes it clear that nothing in the Act shall be construed to prohibit the Agency from conducting certain necessary and appropriate activities in the United States directly related to its foreign intelligence responsibilities.

I welcome this proviso not only for its content but also for its clarification of the propriety of some of the long-standing activities of the Agency which are essential to its foreign intelligence mission. These include:

- a. Recruiting, screening, training and investigating employees, applicants and others granted access to sensitive Agency information;
- b. Contracting for supplies;
- c. Interviewing U.S. citizens who voluntarily share with their Government their knowledge of foreign subjects;
- d. Collecting foreign intelligence from foreigners in the United States;
- e. Establishing and maintaining support structures essential to CIA's foreign intelligence operations; and
- f. Processing, evaluating and disseminating foreign intelligence information to appropriate recipients within the United States.

These matters were publicly reported by me in my confirmation hearing last summer, and I believe that there is general understanding of their necessity and propriety. The proviso in the amendment, however, would make this explicit.

The bill also adds a new subsection to the Act to prohibit transactions between the Agency and former employees except for purely official matters. I fully subscribe to the purpose of this provision, to assure that former employees not take advantage of their prior associations to utilize the Agency's assistance or resources or to have an undue influence on the Agency's activities. This is particularly directed at the possible use of the Agency's assets for "nonofficial" assistance outside the Agency's charter. I would like to say that such a provision is not necessary, but again I must admit that errors have been made. While I do not believe there were any instances of major import, I accept the desirability of making the limitations on the Agency's unique authorities quite clear.

The normal legal proscriptions against improper influence on Federal employees apply, of course, to the Agency. In addition, a regulation has been developed within the Agency, which is brought to the attention of each employee each year, that any CIA employee who believes that he has received instructions which in any way appear inconsistent with the CIA legislative charter will inform the Director immediately. I might point out that

in those cases which presented questions concerning the Agency overstepping its bounds, the propriety and dedication to American traditions of our own employees caused them to object to possible Agency activities outside its charter. In my confirmation hearing I stated that I am quite prepared to leave my post if I should receive an order which appeared to be illegal and if my objections were not respected.

Thus, we in the Agency are fully in accord with the purpose of this amendment. At the same time, I confess concern over some possible interpretations of the language of this subsection. I assume that "purely official matters" would include our normal relationships with our retirees or others who left the Agency. I would assume it would also enable us to maintain normal official relationships with individuals who left the Agency to go on to other Governmental activities so long as the "official matters" fall within the scope of CIA's legitimate charter and there is no undue influence involved. I do wonder, however, whether certain activities might be included under this provision as official which neither the Congress nor the Agency would want to countenance, and on the other hand whether the phrase might interfere with a contact with an ex-employee volunteering important information to the Agency.

Since the Agency has certain unique authorities under the National Security Act and the CIA Act of 1949 and since much of its work does involve

highly classified activity, I would think it appropriate that the Congress add to the Agency's legislative charter some special recognition of the high degree of responsibility imposed on the Agency and its employees as a result of the grant of these unique authorities. This could require the Director to develop and promulgate a code of conduct for CIA employees at a higher standard than that expected of Federal employees generally. Thereby, the intelligence profession would become one of those with special standards such as the medical or legal professions. The Director's unique authority to terminate employees in his discretion when necessary or advisable in the interests of the United States, pursuant to the National Security Act of 1947, would provide a sanction for the application of such high standards. Regular congressional review would provide an assurance that such a code of conduct was adequate and that it was being promulgated, applied, and adhered to.

Mr. Chairman, it has been a pleasure to have had this opportunity to comment on H. R. 15845. With the few reservations I have noted above, I fully support the bill. Most of all, I fully support the purpose of the legislation in clarifying the mission of the Central Intelligence Agency only to conduct foreign intelligence activities. At the same time, I am pleased that the modifications proposed to the CIA charter would not adversely affect its authority or capability to carry out the challenging task of collecting, processing and disseminating foreign intelligence in the world today. I believe

these amendments would mark an important milestone in eliminating any apparent conflict between our ideal of an open American society and the minimum requirements of secrecy in the intelligence apparatus necessary to protect this free nation.

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Statement of

WILLIAM E. COLBY
Director of Central Intelligence
before
HOUSE FOREIGN OPERATIONS AND GOVERNMENT INFORMATION SUBCOMMITTEE

August 1, 1974

Mr. Chairman, I welcome the opportunity to testify today on H.R. 12004, introduced by you and others, to replace with a statutory classification system the existing system established by Executive Order 11652, and to discuss the operations of this Executive Order within the Central Intelligence Agency.

Mr. Chairman, at the outset I want you to know that while we in the intelligence profession do have some special security needs, we fully recognize that the bedrock of our system of government is an open society and an informed public.

In a report issued last year your committee stated that "...there is an unquestioned need for Federal agencies to avoid the release or dissemination to the public of certain sensitive types of information, the safeguarding of which is truly vital to protecting the national defense and to maintain necessary confidentiality of dealings between our country and foreign nations." The necessity to safeguard certain truly vital foreign intelligence secrets has been recognized by the Congress in its direction to the Director of Central Intelligence in the National Security Act of 1947 to protect intelligence sources and methods from unauthorized disclosure.

There are special problems involved in protecting intelligence sources and methods which I believe bear directly upon H.R. 12004 and Executive Order 11652. These problems flow from the very nature of intelligence information - its substance and the means by which it is obtained.

The flight characteristics of a foreign fighter plane, the accuracy and numbers of a foreign ballistic missile, or the plans and capabilities of a foreign country in the economic or political fields are examples of substantive intelligence information. Very often such intelligence information can be a benefit to this nation only if our potential adversary is unaware that we have such knowledge. On this basis such substantive intelligence information is deserving of protection as affecting our nation's vital interests.

But inherent in the substantive information itself are clues to the means through which it was obtained - intelligence sources and methods. Unless these means are protected, countermeasures can be mounted to nullify or impair collection efforts. It was this concern, I believe, which led to the statutory directive that the Director of Central Intelligence is responsible for protecting intelligence sources and methods from unauthorized disclosure.

-- Clearly a secret agent operating abroad in a hostile climate must be protected -- not only to enable him to continue to supply intelligence, but also because the freedom and lives of individuals may be at stake. The exposure of an agent obviously ends his immediate usefulness. It may or may not expose his sub-agents and any networks for collecting information he may have established. Finally it may affect our ability to obtain assistance from others. Credibility in protecting our sources is the sine qua non of the intelligence profession.

-- Foreign intelligence services and security agencies are also positive contributors to our intelligence and counter-intelligence programs abroad and continued cooperation often depends upon confidence that the existence of the relationship will be protected.

-- Revelation of methods of technical intelligence collection may result in countermeasures to mislead or obstruct methods of collection and render ineffective costly programs.

-- While a particular piece of intelligence information by itself may not be revealing of sensitive sources and methods, accumulation of bits of intelligence information may well eventually lead back to the sources or methods relied upon for its collection.

In view of these considerations, I believe Congress acted wisely when in the 1947 National Security Act it identified a focal point to assume the responsibility to protect against the unauthorized disclosure of sensitive intelligence sources and methods.

Recently I testified before the Intelligence Subcommittee of the House Armed Services Committee on H.R. 15845, which amends the charter of the Central Intelligence Agency in the National Security Act of 1947. One amendment in that bill would reinforce the charge in the original Act by requiring the Director to develop appropriate plans, policies and regulations for the protection of intelligence sources and methods. In that testimony I pointed out that I do not believe the present statutes provide sufficient measures to enforce this responsibility, and that proposals are under consideration in the Executive Branch to remedy this weakness.

The Central Intelligence Agency is not a public information agency, but was established to provide our government with information and assessments to assist policy decisions about developments abroad affecting the United States. Much of this material is necessarily classified as it comes from sensitive intelligence sources. It is thus made available in classified form to the members of the Executive Branch concerned with these questions. Such material is also made available to the Congress, in executive session, to endeavor to assist the Congress in its role in decision making under the American Constitution. To the extent feasible, moreover, the Agency's information is made available to the public directly or indirectly, in a number of ways.

-- Where possible the Agency identifies for public release information resulting from its efforts. A recent example was the China Atlas published in 1972 and an atlas on the Middle East published in 1973.

-- The Agency briefs appropriate committees of the Congress -- the Foreign Affairs and Foreign Relations Committees, the Armed Services Committees, and the Joint Committee on Atomic Energy -- in executive session in order to provide the fruits of our nation's intelligence investment. To the extent possible, such information is later cleared for publication. A recent example of this procedure was the detailed testimony on the economies of the Soviet Union and China provided to the Joint Economic Committee and published on July 19th after appropriate screening. We also fully brief the CIA oversight subcommittees of the Armed Services and Appropriations Committees on budget and operational matters.

-- We are completing a review of nearly 1,000 cubic feet of classified OSS records in the custody of the Archivist and over 90 percent of them are being declassified. Moreover, we have reviewed and declassified nearly 250 OSS films.

-- The Agency responds affirmatively whenever possible to requests for information under the Freedom of Information Act and Executive Order 11652. Of requests received and acted on in 1973, affirmative action was taken in 80 percent of the cases.

In our efforts to screen our information to decide what can be made available to the public, we must depend upon the training, background, and experience of professional intelligence officers to identify those matters which might appear innocuous but which could reveal to a foreign intelligence service our intelligence sources or methods.

With this background, I would now like to address myself to the provisions of H.R. 12004.

Very simply, H.R. 12004 would conflict severely with the responsibilities of the Director of Central Intelligence to protect intelligence sources and methods. Under the bill all SECRET and CONFIDENTIAL information must be declassified in two and one years, respectively. A great deal of our intelligence product, even of our sources and methods, would not meet the standard under the language of the bill to be classified as TOP SECRET. All such information thus would be declassified in no more than two years. I would find it very difficult, in good conscience and in terms of practicality, to urge a foreign intelligence service or a strategically placed individual in a foreign government or a foreign country to cooperate with this Agency and to provide information in confidence if the law of this country required that such information be made available to the public two years later.

All TOP SECRET information would be declassified under the bill in three years, unless it falls within one of several categories, one of which is information which would disclose intelligence sources and methods. But even this information could be declassified by the Classification Review Commission which the bill would establish. Moreover, the Commission could do so in the face of and notwithstanding a written detailed justification by the President himself "for the continued safeguarding of such information based upon national defense interests of the United States of the highest importance." This would seem to raise constitutional questions and it surely would impair my ability to protect intelligence sources and methods.

Under the bill information may be classified only in the interest of "national defense," as contrasted with "national defense or foreign relations of the United States" as now provided by the Executive Order. I believe it important that the bill be in terms which make it clear that the information which may be protected is not limited to strictly defense information.

The bill requires that the names and addresses of all persons authorized to classify must be furnished quarterly to the Classification Review Commission and, upon request, to any member of Congress or the Comptroller General. This feature would hamper severely the operation of the intelligence-gathering function of this Agency, since it would serve to identify many employees whose duties and prospective duties

require that their status as employees of CIA not be revealed. It would also be in conflict with the provision of the Central Intelligence Agency Act of 1949 which exempts the Agency from the provisions of any law which require publication or disclosure of certain information concerning Agency personnel.

The requirements for downgrading and declassifying existing information in the first and succeeding years after enactment would pose tremendous administrative burdens. The requirement to transfer to the Classification Review Commission information downgraded from TOP SECRET likewise would be administratively burdensome. Further, it would impinge on my responsibility to protect intelligence sources and methods.

My final point with respect to H.R. 12004 concerns the impact its enactment would have on the authority departments would retain to withhold information based on one of the exemptions of the Freedom of Information Act. Exemption 1 of that Act permits withholding of information classified pursuant to executive order. Exemption 3 permits withholding of information which is "specifically exempted from disclosure by statute." If enactment of H.R. 12004 resulted in the rescission of Executive Order 11652, as I assume it would, the protection of Exemption 1 would be gone. And it might be contended that classification actions made under H. R. 12004 and the regulations of the Classification Review Commission are made "pursuant to" rather than "by" statute and therefore are not to be withheld under Exemption 3. If this contention

is sound it would mean that classified information requested under the Freedom of Information Act could not be withheld. Clarification by appropriate revision would be highly desirable.

I turn now to Executive Order 11652. That Order, and H.R. 12004 as well, obviously represent an effort to overcome the problem of too much classification and for too long. I believe responsible opinion is in agreement that there are problems in this area. Executive Order 11652, the first major change in classification practices in nearly 20 years, was an attempt to make a turn-around in the government's classification practices which date back to World War II, and to deal with the untold volumes of documents which remain classified. This is a major undertaking. It will require time and much work.

The Order of course has impacted on CIA operations in a number of ways, some of which I mentioned earlier. I propose now to summarize certain others, Mr. Chairman, and, with your permission, I will submit for the record a supplementary statement which provides certain statistics and details.

To meet the requirements of the Executive Order, we have made minor modifications in our data index system, which we had developed through the years as an aid in locating and retrieving information. We have made significant reductions in the numbers of persons authorized to classify information.

We have conducted a number of seminars and briefings to familiarize employees with the Order. The Order, the Agency implementing regulation and other written materials are readily available within the Agency and some of this is circulated periodically as required reading.

As a final point, Mr. Chairman, it is my understanding that the principal purpose of H.R. 12004 is to replace the existing executive order system for classification with a statutory system. It is my belief that a statutory basis for classification by CIA already exists. Congress has declared in the National Security Act of 1947 that the Director of Central Intelligence must protect foreign intelligence sources and methods from unauthorized disclosure. Later it declared in the CIA Act of 1949 that information relating to such Agency areas as organization, functions, and identities of personnel is protected information. In general, then, H.R. 12004 as it applies to such areas in CIA is in conflict with existing statutes relating to the Central Intelligence Agency, and would dilute my responsibility and ability to protect intelligence sources and methods from unauthorized disclosure.

To summarize, Mr. Chairman, my particular concern with respect to H.R. 12004 arises from my statutory charge to protect intelligence sources and methods. We are working to carry out the requirements and objectives of E.O. 11652 but its full implementation will take time and it is too soon to conclude that it is entirely satisfactory. And finally, Mr. Chairman, I am committed to the view that the intelligence investment is to be fully returned to the taxpayer in the form of quality intelligence for the government's policymakers and for the public, to the extent possible while protecting intelligence sources and methods, the duty charged to me by the National Security Act of 1947.

Supplementary Statement of
WILLIAM E. COLBY
Director of Central Intelligence
August 1, 1974

A brief description of some of the specifics of CIA implementation of Executive Order 11652 might be useful to the Committee.

One of the major requirements under the Executive Order, and one which has attracted some interest, is the establishment of a data index system. The implementing NSC Directive calls for such a system for classified information in categories approved by the Interagency Classification Review Committee "as having sufficient historical or other value appropriate for preservation." Happily the CIA was in a relatively good position when this requirement was established. For some time the Agency has had a sophisticated, computerized data index system, improved and refined through the years, by which it has indexed, among other documents, finished intelligence reports. Such reports have been approved by the Interagency Classification Review Committee as a category of information appropriate for preservation. Only a few relatively minor adjustments in the system were necessary to completely conform it to the requirements of the NSC Directive.

The principal purpose of the index system was to retrieve information and it is highly efficient for this purpose. As modified, it also can

be useful in the review and declassification process. It is anticipated that usefulness in these areas will increase as the years go by and as the data base of an ever-increasing proportion of the indexed documents includes the now required classification data elements. The data index system, on the other hand, can be of little or no value in guarding against or tracing leaks of classified information, and this is especially true in this day of the copying machine.

In concert with other departments, CIA has experienced a significant reduction in the numbers of authorized classifiers in each of the three classification levels. The initial reduction was in excess of 40 percent and there has been an additional small reduction. One factor which limits the Agency's ability to reduce these numbers is that its people are located in so many places abroad. In all such installations, even if there is only a one-man component, that individual must have authority to classify information. Nevertheless, it may be possible to make further reductions in the future.

Under the Executive Order, any person may request a review for declassification purposes of any sufficiently identified document which is at least 10 years old. CIA has had a number of requests for review and declassification. In 1973, 110 declassification requests were received, 50 of which were granted in full, 19 granted in part, 18 were denied, and action on 23 was pending at the end of that year.

A number of requests have originated with other government departments in connection with their consideration of declassification requests to those departments. Requests have come in from the press, from current and former employees, from professors, graduate students, high school and college students, and from individuals who have not revealed their occupation or position. Perhaps the greatest number of requests originated with other departments, with the press and scholars constituting the second and third largest categories.

Requests revealed an interest in World War II and OSS activities, in CIA involvement in Guatemala and Cuba, and -- probably the greatest number -- in Agency involvement in Vietnam. Denial of requests is based on the nature of the information as measured against the standards of the Executive Order. Documents have been denied which reveal a confidential intelligence source or agent. Information received from a foreign government with the understanding that it be kept in confidence has been denied. Documents have been denied which would disclose that an individual whose duties and career require that his CIA employment not be revealed, in fact is a CIA employee.

It has been possible to approve the request for over 200 OSS documents made by a historical researcher who was writing a book on his experience as head of the OSS mission to Hanoi. A number of requests for documents concerning certain Indonesian matters from a Vassar professor doing research on U.S./Indonesia relations during

the early 1960's have been approved. The French Broadcasting System requested the OSS film "Mission to Yenan." This was made available to them, and to the public, by declassifying it and transferring it to the National Archives.

In the area of training, security briefings are given new employees covering the standards and procedures established by the Executive Order. A series of meetings were held in 1973 for 160 key personnel for the purpose of briefing these supervisory personnel on the requirements of the Order. Overseas assignments and job requirements would preclude training for all employees, but the CIA regulation contains the requirements of the Executive Order and is readily available throughout the Agency. The security and records management features of the Executive Order are treated in various Agency lectures and seminars, including the regular Mid-Career Executive Development Course and the Management and Services Reviews. Basic information pertaining to E.O. 11652, including the criteria for classifying information, is included in required reading which is circulated periodically to all personnel.

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EMPLOYEE BULLETIN

No. 425

29 October 1974

PROPOSALS RELATING TO COVERT ACTION AND LEGISLATIVE OVERSIGHT

This bulletin is being published in accordance with the Director's desire to keep employees informed of matters affecting the Agency. It includes summaries of the status of various proposals in Congress relating to covert action activities of the Agency and legislative oversight, as well as views of the President and the Director on certain of these proposals.

CONGRESSIONAL PROPOSALS ON COVERT ACTION

1. Abourezk Amendment

SUMMARY: Senator Abourezk introduced a floor amendment to the Foreign Assistance Act (S. 3394) which would have prohibited funds being used by any U.S. governmental agency to carry out any activities which would violate or encourage violation of the laws of the U.S. or the country involved. Excluded were activities necessary to national security which were intended solely for intelligence collection.

STATUS: Defeated on Senate floor on October 2 by a vote of 68-17.

2. Hughes Amendment

SUMMARY: Senator Hughes also introduced a floor amendment to the Foreign Assistance Act (S. 3394) dealing with covert operations, but much less restrictive than Senator Abourezk's. It would bar funds for covert operations (defined to exclude intelligence gathering) unless the President finds the operation to be vital to the defense of the U.S., and transmits a report of his findings, with a description of the operation, to the congressional intelligence oversight committees. These procedural safeguards would be eliminated during a war.

STATUS: On October 2, following the acceptance of the amendment by Senator Stennis, the entire Foreign Assistance bill was recommitted to the Foreign Relations Committee.

3. Holtzman Amendment

SUMMARY: Representative Holtzman introduced a House floor amendment to the 1975 Continuing Appropriations resolution (H.J. Res. 1131). The amendment would have banned the use of any money appropriated under the joint resolution for use by CIA to "destabilize" or undermine any government.

STATUS: The amendment was defeated 291-108 on September 24.

4. House Foreign Affairs Committee

SUMMARY: On October 10 the House Foreign Affairs Committee reported for floor action its version of the Foreign Assistance Act amendments (H.R. 17234). Included was a section patterned after the Hughes Amendment. This provision bans operations in foreign countries, except intelligence collection, unless the President finds the operation to be important to the national security, and submits a timely report describing the operation to Congress. The report is to go to the "appropriate committees" of the Congress, specifically including the foreign affairs committees. The provisions are to be suspended during war.

STATUS: This bill has not yet come before the entire House.

EXECUTIVE POSITION ON COVERT ACTION

The President, in his 16 September news conference, stated that "our Government, like other governments, does take certain actions in the foreign intelligence field to help implement foreign policy and protect national security---...it is a recognized fact that historically as well as presently, such actions are taken in the best interest of the countries involved."

The Director, in a letter to Chairman Fulbright of the Foreign Relations Committee, emphasized the possible adverse impact of the proposed Abourezk amendment on the Nation's national security interests. The Director restated his views that "I think it would be a mistake to deprive our nation of the capability of some moderate covert response to a foreign problem and to leave us no alternative between a diplomatic protest and sending the Marines."

CONGRESSIONAL OVERSIGHT PROPOSALS

There are three distinct approaches in this category: bills which attempt to supplement (A below), supplant (B below) or, study (C below) existing oversight procedures.

A. Supplement

1. Bolling-Hansen House Committee Reform Amendments

SUMMARY: Representative Zablocki introduced a floor amendment providing the Foreign Affairs Committee a special oversight function of reviewing and studying "intelligence activities relating to foreign policy." The chairman of the Armed Services intelligence subcommittee, Representative Nedzi, supported the amendment as conforming to an agreement between Dr. Kissinger, Mr. Colby, and the Chairmen of the Armed Services and Foreign Affairs committees, Representatives Hebert and Morgan.

STATUS: The Zablocki amendment passed by voice vote, and the entire Committee Reform Amendments were agreed to by the House on 8 October.

B. Supplant

1. Baker/Weicker bill (S. 4019)

SUMMARY: This bill would create a Senate-House Joint Committee on Intelligence Oversight to supplant Armed Services Committee jurisdiction. The Committee would have 14 members, appointed by the leadership, and the chairmanship would alternate between the House and Senate for each Congress. The jurisdiction of the Committee would extend to CIA, FBI, Secret Service, DIA, NSA, and all other governmental activities pertaining to intelligence gathering or surveillance of persons. Chiefs of all named departments would be required to keep the Committee fully and currently informed of all activities.

STATUS: Referred to Committee on Government Operations; hearings are planned after Congress reconvenes in November.

2. Harrington Resolutions (H. Res. 552 and 1231)

SUMMARY: These alternative resolutions would transfer to a new House committee jurisdiction over the Central Intelligence Agency or over the entire intelligence community and all matters relating to foreign intelligence.

STATUS: Referred to the House Rules Committee.

3. Hathaway bill (S. Con. Res. 23)

SUMMARY: This resolution would create a Senate-House Joint Committee which would have oversight of CIA and all other intelligence and information agencies of the U.S. Government.

STATUS: Referred to Armed Services Committee.

Study

1. Mondale Resolution (S. Res. 404)

SUMMARY: This resolution would create a Senate Select Committee on Intelligence Policy, composed of five members of Armed Services, five members of Foreign Relations, and five other Senators. The Select Committee would be authorized to examine U.S. intelligence policies and operations, to determine the role of intelligence decisionmaking, and evaluate the impact of intelligence on national security and foreign policy. The Committee is to report to the Senate by June 30, 1975.

STATUS: Referred to Armed Services Committee.

2. Mathias and Mansfield Resolution (S. Res. 419)

SUMMARY: This resolution would create an 8-member (selected at-large) Select Committee to Study Governmental Operations With Respect to Intelligence Activities. The Committee is instructed to study and investigate all domestic and foreign intelligence activities of the U.S. Government and past effect and future role of such activities. The Committee's report is due two years after enactment.

STATUS. Referred to Committee on Government Operations.

3. Humphrey bill (S. 1547)

SUMMARY: This bill would create a Joint Committee on National Security, consisting of the Speaker, majority and minority members of each House, the chairman and ranking minority members of the Armed Service, Appropriations, Foreign Affairs, Joint Atomic Energy Committees, three other Representatives, and three other Senators. Functions of the Committee are to study foreign, domestic, and military national security policies, study the National Security Council, and study Government classification practices, and report periodically to each House on the Committee's findings.

STATUS: Bill recently transferred from Armed Services to Government Operations Committee at Senator Humphrey's request.

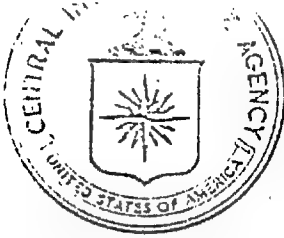
4. Harrington Resolution (H. Res. 1232)

SUMMARY: This resolution would authorize the House Committee on Foreign Affairs to conduct a complete investigation of CIA.

STATUS: Referred to Committee on Rules.

AGENCY POSITION

It has been the consistent view of the Director that the manner in which legislative oversight of the Agency is exercised is a question for the Congress itself to decide.



EMPLOYEE BULLETIN

No. 409

CONGRESSIONAL COMMENTS RELATING TO THE CIA BUDGET

1. The purpose of this bulletin is to keep employees informed on recent events in the Congress of the United States which affect the Agency.

2. On 4 June 1974 the Senate by a vote of 55 to 33 defeated an amendment to the Defense Procurement Authorization bill (S. 3000) which would have required the Director of Central Intelligence to submit an annual unclassified report to the Congress disclosing the total amount of funds requested in the budget for the National Intelligence Program.

3. A number of Senators, including the Chairmen of the Agency's Oversight Committees in the Senate, strongly opposed the amendment on the basis that such disclosures would provide valuable assistance to our adversaries by virtue of the trends disclosed over the years and that the publication of the total figure would only stimulate further inquiry for greater detail on foreign intelligence activities, for explanations of changes or trends, and for the component elements of the total figure.

4. They also pointed out that the four committees charged with oversight of the Agency in the Congress are fully aware of the details of the foreign intelligence budget and inquire into these matters deeply. The point was also made that if any member of the Senate wished to know what the total figure was it would be furnished to him on a classified basis.

5. The discussion on the amendment is covered on pages S. 9601-9613 in the Congressional Record of 4 June 1974. Excerpts follow:

True, we are an open society and, so far, we have been able to carry on an intelligence program effectively which has been worth to us billions and billions and billions of dollars in savings. But, if we are going to abandon the idea of keeping these figures from being disclosed, then, in my humble opinion, we might as well abolish the agency. It would be like saying, in effect, that we do not want this secret intelligence after all, that we do not need it, and that we will abandon it.

We will pay an awful price for that.

I am familiar with the CIA budget. I can satisfy most any Senator in the cloakroom, talking to him some about this, but I will publicly say that it is a clean budget and they have justified many times over the expenditure of the money. "

Senator Pastore: ". . . We have to know what they are doing. So we can know what we have to do in order to guarantee the security of our own country.

So we cannot come out here and tell the whole world, "We spent \$1 billion or \$2 billion for the Central Intelligence Agency." What does that mean to anyone else, except that perhaps some people think they are spending too much. And the minute the question is asked where they are spending it we are in serious trouble.

So what happens to your children and my children, Mr. President? What happens to you when you go home tonight? What happens tomorrow? What happens to the security of our country? Can we afford to tell them? Oh yes, I would like to tell the public everything it is possible to tell them. I believe in that. I have been in public life continually for 40 years. I believe in the right of the public to know. But I certainly would not come to the floor of the Senate and tell you, Mr. President, how to put together an atom bomb. I would not tell you that. I would not tell you how far our nuclear subs are able to travel; I would not tell you how we can detect an enemy sub; and I would not tell you how they might detect ours. I would not tell you that. Why would I not tell you that? I would not tell you that because the minute I told you that I would jeopardize the future of your children.

. . . .

I have sat down with the Senator from Wisconsin (Mr. Proxmire), the Senator from California (Mr. Cawston), to find a solution, and I have sat down with Mr. Coiby, who is a great American. He said, "Please do not do this. If you want to make my job easier, please do not do this." I cannot sit there after that admonition and exhortation and turn around and say, "Mr. Coiby, I do not believe what you have to say." If I believed that for 1 minute, I would say, "You ought to give up your job." . . . "

rise to commend the Senator from Rhode Island and to associate myself fully with his comments. The Senator pointed out very properly that the Central Intelligence Agency has in the past engaged in activities that have been looked upon by certain Members of the Congress as undesirable; but I want to make it clear that every one of those activities had been ordered by a President. The Central Intelligence Agency does not just engage in activities for the love of work. I know that the Central Intelligence Agency, during the Kennedy years and the Johnson years, was engaged in activities in Laos—

. . .

Mr. President, the Central Intelligence Agency is possibly the most important agency in this Government. By and large, it is made up of people who are competent, able, and who have served this country well and faithfully. To be sure, there are times when it has engaged in activities, as we have said, that are looked upon with suspicion; but I think it would be folly for us to publicize all of its activities, to publicize the amounts it receives, particularly when there are ways and means within this body and within the other body of Congress to supervise it and to keep a check rein upon it.

. . .

I had the privilege of serving on the National Security Council, and I want to tell my colleagues that the Central Intelligence Agency was the most accurate and effective instrument of Government for that council. Its reports were most accurate, and had we followed the advice of the Central Intelligence Agency in many areas, we would have been better off, but at least it was there.

. . .

But just as surely as we are in this body today debating whether or not we ought to have a release of the figure, next year it will be whether it is too big or too little, and then it will be what is in it. Then when we start to say what is in it, we are going to have to expose exactly what we have been doing in order to gain information; for example, years ago as to where the Soviet Union was building its nuclear subs and the kind of nuclear subs they were. I saw that material in 1965—how far they were along, what their scientific progress was. I do not think it would serve the public interest for all of that information to have been laid out. It would have destroyed our intelligence gathering completely. . . .

But, let us bear in mind that if we are to have a security intelligence agency, we cannot have it with national publicity on what it does, how it does it, and how much it spends here, or how much it spends there. . . . "

Senator Stennis: ". . .

On my responsibility to my colleagues, they in CIA keep a clean house. They have had a conservative operation dollar-wise and have accounted for the money in a splendid way. That has been true without exception. There has been no great spillage of money or great extravagances, and not one bit of scandal or odor of any kind. . . .

Senator Thurmond: ". . .

I believe that our Nation is unique in the attention its legislature has given to specifying and circumscribing the activities of the agency designated to perform its foreign intelligence missions. . . . "

Senator Proxmire: ". . .

Mr. President, the purpose of the amendment which I am offering now is to provide that the overall figure for the intelligence community as a whole, not broken down but the overall figure, would be made available, so that the taxpayers of this country would have some idea of how much, how many billions of dollars—and it is billions of dollars—are going for intelligence efforts by our Government.

Now just what would this tell our adversaries? They would not know if it all went to the CIA, or DIA. Whether the NSA spent most of the money, or the Air Force.

How about yearly fluctuations? Say for example, that the budget went up 10 percent in 1 year. What would they conclude? That manpower was more expensive? That the CIA was spending more for Laos? That the DIA had bought a new computer division? That NSA was hiring more people? They would know nothing. . . . "

Senator Hughes: ". . .

The threat will come from losing control on the inside. If maintaining that control requires an ounce of risk, then I think we should be prepared to take that ounce of risk in at least letting us see publicly and the people see publicly whether we are spending \$3 billion, \$7 billion, or \$90 billion, and how we are concealing it and hiding it, and if we are protecting ourselves from the inside as well as from the outside.

I think that ounce of risk, if it exists, is worth taking, and I thank the distinguished Senator from Wisconsin for yielding. . . . "

Senator Jackson: ". . .

In summary, our foreign intelligence service arises out of an act of Congress and all of its activities are closely scrutinized by a number of representative members of both the Senate and the House of Representatives. This is how we have resolved the balance between the needs of an open society and the needs for a secret foreign intelligence service. I certainly do not think that this is the time to unbalance the situation as I am confident enactment of the proposed amendment would do.

Senator Young: ". . .

I know there is great interest in the public knowing everything possible, but I think there are some things that should be kept secret for our own security. "

6. Other amendments to this bill were approved by the Senate on 3 June 1974. Although not proposed by him, these amendments were patterned for the most part after those ^{legislation} included in a bill (S. 2597) introduced by Senator Stennis, who is Chairman of the Subcommittee on Central Intelligence of the Senate Armed Services Committee. The amendments ^{to change} the CIA section of the National Security Act of 1947 by:

a. emphasize that CIA is concerned only with foreign intelligence by inserting the word "foreign" as a modifier throughout the section of the law setting forth the Agency's responsibilities.

b. require that functions and duties related to foreign intelligence performed by the Agency at the direction of the National Security Council shall be reported to the Congress. This provision established in statute a procedure followed for a number of years with the Agency's four oversight committees.

c. clarify the current statutory prohibition concerning law enforcement, police, or internal security matters by providing that the Agency shall not carry out on its own or assist other agencies of Government in carrying out law enforcement or police-type operations. The amendment specifically authorizes the Agency to protect its installations, conduct investigations of those granted access to sensitive Agency information, and provide information resulting from foreign intelligence activities to other appropriate departments and agencies.

7. It is expected that S. 3000 will be approved by the Senate some time this week and in the normal course of legislative processing will be the subject of a Conference Committee and final action by both Houses before submission to the President for his approval.

DISTRIBUTION: ALL EMPLOYEES (1-6)

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2025 M STREET, N.W.
WASHINGTON, D.C. 20506

MANDATE

The Foreign Relations Authorization Act of 1972 (P.L. 92-352, July 13, 1972) established a joint Presidential-Congressional study commission to submit to the Congress and the President findings and recommendations "to provide a more effective system for the formulation and implementation of the Nation's foreign policy."

In describing the duties of the Commission the law states that "the Commission shall study and investigate the organization, methods of operation, and powers of all departments, agencies, independent establishments, and instrumentalities of the United States Government participating in the formulation and implementation of United States foreign policy." In carrying out its responsibilities, the Commission may make recommendations with respect to the reorganization of the departments and agencies, more effective arrangements between executive branch and Congress, improved procedures among departments and agencies, the abolition of services, activities and functions not necessary to the efficient conduct of foreign policy, and "other measures to promote peace, economy, efficiency and improved administration of foreign policy."

The report of the Commission, which is to be submitted to the President and the Congress by June 30, 1975, may include "proposed constitutional amendments, legislation, and administrative action considered appropriate in carrying out its duties." The Commission, in performing its responsibilities, is authorized to hold hearings, subpoena witnesses and secure directly information from any executive department or agency.

COMMISSION MEMBERS

The Commission is composed of twelve members, four each appointed by the President of the Senate, the Speaker of the House, and the President. The members are:

THE HONORABLE ROBERT D. MURPHY - Chairman
Corning Glass International
New York, New York

THE HONORABLE JAMES B. PEARSON - Vice Chairman
United States Senate

F-AP

MRS. ANNE ARMSTRONG
Counsellor to the President
White House

THE HONORABLE WILLIAM J. CASEY
Ex-Im Bank

MRS. CHARLES W. ENGLEHARD, JR.
Far Hills, New Jersey

MR. AREND D. LUBBERS
President, Grand Valley State College
Allendale, Michigan

MR. FRANK C. P. McGLINN
Executive Vice President
Fidelity Bank
Philadelphia, Pennsylvania

THE HONORABLE Peter Frelinghuysen
House of Representatives

THE HONORABLE MIKE MANSFIELD
United States Senate

DR. STANLEY P. WAGNER
President, East Central State College
Ada, Oklahoma

THE HONORABLE CLEMENT J. ZABLOCKI
House of Representatives

COMMISSION STAFF

FRANCIS O. WILCOX is the Executive Director of the Commission and FISHER HOWE is the Deputy Executive Director. Former Senator WILLIAM B. SPONG, JR., is General Counsel to the Commission. The Commission offices are located at 2025 M Street, N. W., Washington, D.C. 20505. Telephone (202) 254-9850.

June 1, 1973
COG/FP STAFF 1

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT
FOR THE CONDUCT OF FOREIGN POLICY

2025 M STREET, N.W.
WASHINGTON, D.C. 20506

STATEMENT OF OBJECTIVES

The objective set forth in the first section of the legislation authorizing the Commission is simple and straightforward: "to submit findings and recommendations to provide a more effective system for the formulation and implementation of the Nation's foreign policy." The statute goes on to specify the kinds of recommendations sought. It directs that they address "the reorganization of the departments, agencies ... and instrumentalities of the Executive Branch participating in foreign policy matters; ... improved procedures among those departments and agencies; the abolition of unnecessary activities and functions; and such other measures as may serve "to promote peace, economy, efficiency and improved administration of foreign policy." In addition to these issues, all concerned with the functioning of the executive branch, the Commission is directed to recommend "more effective arrangements between the executive branch and Congress, which will better enable each to carry out its constitutional responsibilities."

The mandate of the Commission, in short, is not to concern itself directly with the substance of foreign policy, but to propose improvements in the means by which, in both the executive and legislative branches, foreign policy is made and implemented.

In order to focus and direct its inquiries and the work of its staff, the Commission finds it useful to amplify that statement of objectives with further comments of two kinds. Some concern the characteristics the Commission believes "a more effective system" of foreign-policy-making should possess. Others address the problems of making the work of the Commission itself effective.

Elements of Governmental Effectiveness

Any effective system for the formulation and implementation of foreign policy will possess certain characteristics. Those to which this Commission expects to give highest priority

Subj: Statement of Objectives

Page Two

are the following:

That in the FORMULATION of policy, decisions should be based upon --

- (a) a continuing analysis of major trends and developments in the changing world environment;
- (b) a coherent conception of both the immediate and longer-range objectives of this country;
- (c) the best obtainable information from a wide range of sources;
- (d) rigorous and objective analysis of implications flowing from available information;
- (e) a careful balancing of the full range of relevant considerations -- specifically including domestic political and economic factors;
- (f) the consideration of a full range of realistic alternative courses from which to choose;
- (g) adequate coordination and consultation with those who should participate in the policy process;
- (h) procedures which keep to the minimum the decisions which must be made at the top.

That in the IMPLEMENTATION of policy, decisions should be --

- (a) communicated to those responsible or affected by them in a clear and timely fashion;
- (b) monitored to insure that those decisions promptly become policy in fact as well as in word;
- (c) reviewed and evaluated in their effects through a continuing process of reassessment.

Studies Program

That in both FORMULATION and IMPLEMENTATION --

- (a) the commitment of resources -- personnel and budgetary -- be appropriate in scale and skill to the task;
- (b) the several processes operate in as open and public a manner as their nature makes possible, and
- (c) all actions taken be broadly consistent with the public's sense of the nature of U.S. interests and the means legitimate to advance those interests.

The role of the Congress is critical in both the formulation and implementation of foreign policy. The organization of the Congress for these purposes, however, can only be determined by the Congress itself. Nevertheless, the Commission will explore various arrangements concerning the organization, jurisdiction, and staffing of the Congress, and the information and analytic support which might be helpful to it in the conduct of foreign policy.

The Commission will also examine the organizational and procedural arrangements important to the relationship between the legislative and executive branches in the conduct of foreign policy. In particular, the Commission will examine the flow of information and consultation between the two branches.

Making the Commission Itself Effective

The Commission anticipates two principal problems in making its own work effective. The first is that organizational arrangements must in some degree depend on both the personal preferences and the policy predilections of top-level officials. Clearly, therefore, no single best organizational framework for the future can now be authoritatively established. The Commission, therefore, expects to propose single preferred arrangements for those kinds of foreign policy issues which can be resolved at levels of government below the very top, and which consequently need not reflect so directly the decision-making style of particular individuals. As to the kinds of issues which inevitably receive the attention of heads of departments, chairmen of Congressional committees and presidents, the Commission expects to propose alternative methods of organization, any of which might be serviceable and one

--Subj: Statement of Objectives

Page Four

of which would be preferable, depending on the working styles of the senior officials. In addition, the Commission will undertake to specify the criteria which it believes any organization framework, at all levels, should meet.

The second and larger problem is posed by the fact that many of the issues which this Commission will examine have been addressed by prior commissions, study groups and task forces and that the practical results of many of these studies have been meager. We believe there may have been two principal reasons for this fact. The first is that for every proposed organizational change substantial costs or disadvantages as well as benefits can be discerned. They are proposals therefore on which, if the experience and judgment of individuals are the only basis for decision, reasonable men may reasonably disagree. And few prior studies were able to offer their readers any other basis of decision; they did not present a body of evidence to show that the advantages of their recommendations would clearly outweigh the costs or disadvantages. The second reason appears to be that in many cases prior commissions were unable to enlist in the development and review of their recommendations the full participation of the several agencies, departments and indeed branches of government which would be affected by them.

This Commission recognizes an obligation, therefore, to present not merely a set of recommendations and their rationale, but a body of evidence which suggests that such recommendations, if implemented, can reasonably be expected to produce beneficial results. It recognizes also an obligation to offer the many parties inevitably affected by such recommendations the opportunity to comment critically on them and to offer alternative suggestions.

The Commission also recognizes that there may be circumstances under which it can advance the cause of improved organization for foreign policy prior to the issuance of its final report. As its views on appropriate organizational changes develop, therefore, it expects to consult with the officials now responsible for the conduct of foreign policy to determine whether organizational changes which they may be contemplating deserve the Commission's support.

Means to Those Ends

Accordingly, the Commission expects its own work and that of its staff to involve, among others, the following activities.

1. A thorough review of the findings and recommendations of previous relevant studies and reports.
2. A solicitation of the views of a larger number of public and private persons with experience in the analysis or operation of foreign policymaking.
3. A detailed canvassing of the attitudes and desires of members of Congress with respect to the appropriate role for Congress in the making of foreign policy and the means necessary to the effective performance of that role.
4. An intensive study program designed both to canvass existing materials and to develop fresh sources of information on the potential benefits and probable effects of alternative organizational arrangements.

Prospectives on the Commission's Assignment

We undertake this effort and believe it to be important not alone to deal with any inadequacies in our government's current organization for the conduct of foreign policy but for two other reasons as well.

The first has to do with complexity. The world is now not bi-polar but multi-polar. We can no longer neatly divide the nations of the world into antagonists, allies, and neutrals. The pace of technological change increases. The interdependencies of nations become more numerous and more sensitive. Even more pertinent, many of the most important problems are no longer clearly "domestic" or "foreign"; they cannot therefore be adequately dealt with in existing organizational frameworks. In this setting the tasks of foreign policy grow more numerous, more subtle, and more direct in their impact on our daily lives. Some changes in the organization of our government to perform those tasks may therefore prove highly beneficial.

The second reason has to do with power. From the end of World War II until very recently the power and influence of the United States were sufficient to insure that its principal objectives would be attained even where those objectives were only simply perceived and crudely pursued. Those days have gone, and they are not likely to return. Our margin of error is considerably reduced. If the United States is to attain its ends in the future, it must formulate and implement its policies with far greater foresight, precision and control. Here again, organizational changes may prove useful.

It is with the expectation of making substantial contributions to these ends that the Commission pursues its work.

January 20, 1974

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT
FOR THE CONDUCT OF FOREIGN POLICY

2025 M STREET, N.W.
WASHINGTON, D.C. 20506

August 8, 1974

The Honorable William E. Colby
Director
Central Intelligence Agency
Washington, D. C. 20505

Dear Bill:

As the Commission on the Organization of the Government for the Conduct of Foreign Policy moves from the briefing phase to the phase of study in depth of some selected features, I would like to outline for you our approach in the area of intelligence. Intelligence obviously plays a major role in the formulation and execution of foreign policy. We would like to identify that role clearly and look at various ways intelligence could make an even better contribution to foreign policy deliberations. This will require us to be aware of some of the organizational aspects of the intelligence relationship to foreign policy and to assess the ways in which intelligence contributes to foreign policy, from the raw report to the finished estimate. We must also cover the degree of success our intelligence has and can hope to have in accurately reporting events abroad and projecting their likely future directions. I think we must include a review of the political costs involved in intelligence operations where they do cause problems for foreign policy. As a related but somewhat separable issue, we will need to identify the role in our foreign policy of what is called covert action and come to some judgments on its desirability, extent and decision-making process.

On the other hand, I do not view the Commission's function as reviewing and making recommendations on the organization of our intelligence services and community, its budgets, personnel strengths, etc., or the details of its operations and procedures. The Commission will not be conducting an investigation of the organization of intelligence itself, but, rather, the role of intelligence as it affects the conduct of our foreign policy. In order to make informed judgments on the latter, of course, we must be aware of some of these matters as necessary background, but I want to assure you that the thrust of our work will be in the latter category. I share what I know is your great concern about the necessity to protect the sensitive operational aspects of the intelligence effort. We will conduct our inquiry and maintain our records so as not to expose such matters.

As you know, we have consulted a number of experts to help the Commission draw up a Study Plan, and I enclose a copy of their suggestions for your information. The plan would operate under the close supervision of our Executive Director Francis Wilcox and his Deputy Fisher Howe. It will be

The Honorable William E. Colby

will
noted that Mr. William J. Barnds/draw up Paper #1 and #2 on "Intelligence Functions and Policy Making in the Institutional Context"; Mr. Clinton W. Kelly III, Paper #3 on "Innovation in Intelligence Production", and William R. Harris, Paper #4, on "Authority for the Conduct and Management of Foreign Intelligence".

As you will note from the enclosure, there will be an "all source" study project under Intelligence Project Director Mr. Kent Crane, which will include analysis of past studies and reports on the intelligence community. He and others will be discussing with you the specifics of these studies and be sure that appropriate clearances are obtained and other arrangements made.

The Commission is most grateful for your cooperation and encouragement in the initial phase of our work.

With warm regards

Yours sincerely,

Robert Murphy
Robert Murphy
Chairman

RM:lb
Enclosures

— September 20, 1974

MEMORANDUM

TO: The Intelligence Subcommittee

SUBJECT: Study Plan and Study Group

Pending the formation of the Subcommittee for National Security and Intelligence, the staff proceeded with plans for review of intelligence matters pertinent to the Commission's mandate and initiated research studies on several aspects of the subject to be ready for a study group's deliberation. The Study Plan, including a short outline of the research now underway, is enclosed.

If the Subcommittee approves the concept, a Study Group should be formed comprised of the Subcommittee members supplemented by five or six knowledgeable public citizens. It is presumed that, although the function of Intelligence in the Government involves many technical matters and much that is highly classified, the deliberations of the Subcommittee, and indeed of the Commission as a whole, will be greatly enhanced by the participation of a variety of distinguished private citizens who can bring to the discussion differing backgrounds of experience and views. Specialists and experts can be marshalled to provide support. A "fresh" approach may indeed be the important contribution the Commission can make in this area.

A suggested composition of the Study Group is set forth in a memorandum enclosed.

The Subcommittee should bear in mind that for a number of years the President's Foreign Intelligence Advisory Board, (PFIAB) composed of private citizens, has existed to advise the President on Intelligence matters and has had the Intelligence Community under constant review. The Subcommittee clearly does not want to duplicate the work of PFIAB nor fail to use the fruits of its deliberations. On the other hand, the Commission's mandate would probably indicate that the nature of PFIAB and the contribution that it has made should be explored by the Subcommittee, even as it is examining comparable advisory boards and commissions for such other important functions as

Memo

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Subj: Study Plan and Study Group

aid, cultural affairs, foreign information and arms control.
The present membership of PFIAB is as follows:

Anderson, George W., Jr.
Baker, William O.
Cherne, Leo
Connally, John B.
Foster, John S., Jr.
Galvin, Robert W.
Gray, Gordon
Land, Edwin H.
Luce, Clare Boothe
Rockefeller, Nelson A.
Teller, Edward

At some stage the Study Group will probably want to meet with PFIAB.

F.H.

September 23, 1974

MEMORANDUM

SUBJECT: Subcommittee/Study Group on Intelligence and Covert Action

An outline of proposed activity for the Intelligence Subcommittee, as expanded into a Study Group, is set forth as follows:

1. The Key Substantive Issues

The basic issues for consideration by the Subcommittee/Study Group presented in Enclosure A.

2. Relevant Material Available to the Subcommittee/Study Group

- (a) Major Institutional Report: A letter (12 pages) from DCI Colby to Chairman Murphy outlining formal procedures and organization throughout the intelligence community.
- (b) Major Institutional Hearings (19-20 November 1973): Testimony of DCI Colby; Ray Cline and William Porter from the State Department; and Dr. Hall and Admiral de Poix from the Defense Department. (Summaries of 7-9 pages are available for each one.) The CIA and State testimony is more thoughtful and less rigid than the Defense testimony, but few organizational and procedural changes are recommended by any of them.
- (c) Research Program Case Studies: Some important intelligence matters, including especially an examination of the usefulness of intelligence support in a variety of specific foreign policy situations, will be addressed in the case studies of the Commission's Research Plan.
- (d) Analytical Studies: A set of intelligence analytical issue papers is being prepared under the direction of Dr. William Harris. The papers, between 25 and 75 pages, will be a critically important contribution to the Subcommittee/Study Group deliberations.

Subj: Subcommittee/Study Group on Intelligence and Covert Action

They will be available in late October and will cover the following topics:

1. An overview of intelligence functions;
 2. Intelligence and policy-making in the institutional context;
 3. Innovation in intelligence production;
 4. The authority for foreign intelligence;
 5. Intelligence resource management; and
 6. Covert action.
- (e) An All-Source Study: An all-source study project is being mounted by J. J. Hitchcock, under the direction of Kent Crane, to analyze past studies and reports on the intelligence community. This limited-access report, of between 30 and 50 pages, will be available in late October.
- (f) Recommended Reading: Enclosure B is a short bibliography of particularly useful books and articles.

3. Suggested Plan of Subcommittee/Study Group Action

A total of perhaps five or six 2-day meetings spread over a period of four months will probably be required to review the materials and prepare findings and recommendations:

- (a) A meeting in conjunction with the October Commission meeting to review the key substantive issues in Enclosure A and the outlines for the Analytical Studies (2d above) and "All Source Study" (2e above).
- (b) Second and third meetings in November primarily to discuss with the authors the papers developed in the "Analytical Studies (2d above) and the "All Source Study" (2e above).
- (c) Fourth and fifth meetings in December and early January for the preparation of findings and recommendations.
- (d) A final meeting in January to discuss and revise as necessary a Subcommittee/Study Group report to the Commission.

ENCLOSURE A

The Key Substantive Issues

a. General

What is the proper function performed by intelligence in support of the conduct of foreign policy?

b. Intelligence Analysis

- (1) How can the relationship between the producers and consumers of finished intelligence be improved?
- (2) In the process of analysis to produce finished intelligence, what are the roles best played by the State Department (INR), the Defense Intelligence Agency, and the various analytical offices in the CIA?
- (3) What should be the system for producing National Intelligence Estimates?
- (4) What new forecasting and scoring techniques should be applied to intelligence analysis?

c. Collection of Information for Foreign Policy Support

- (1) What is the best organization for the collection of raw information of use to the foreign policy community - either directly or in support of intelligence analysis? What is the best procedure for setting priorities, allocating missions, and controlling collectors overseas?
- (2) What are the strengths and weaknesses of collection by Foreign Service Officers, CIA Stations, military attaches, and technical sensors?
- (3) How can intelligence resources be of greater assistance in new fields and in support of new potential customers?
- (4) What are the best mechanisms for providing feedback to the collectors and analysts?

D. The Role of the DCI

- (1) What is the most desirable relationship of the

Director of Central Intelligence to the President and National Security Council? What should be the extent of his authority over the full range of intelligence programs, military as well as civilian?

- (2) What changes, if any, are called for in the statutory base and general authorities for foreign intelligence?

e. Resource Management

- (1) Since the overwhelming share of the combined intelligence budget is expended by DoD agencies, with practical constraints upon intervention by the DCI or his Intelligence Community Staff, what are the implications for the reorganization of DoD intelligence management?
- (2) If there are systematic misallocations of resources, what organizational or legislative reforms are advisable?

f. Covert Action

- (1) What are the pros and cons of maintaining a capability for covert action, and what criteria ought to govern its use?
- (2) Where should the responsibility for covert action be lodged, and under what controls should it operate?

g. Congressional Oversight

What kind of Congressional oversight should be applied to intelligence activities and to covert political action?(NOTE: THIS SUBJECT WILL BE REVISED IN THE FIRST INSTANCE IN SUBCOMMITTEE I AS A FUNCTION OF THE LARGER SUBJECT OF CONGRESSIONAL EXECUTIVE RELATIONS.)

ENCLOSURE B

Recommended Reading

- (a) The Intelligence Establishment, by Harry Howe Ransom, Cambridge, 1970. The most thorough and best balanced treatment of the intelligence community by any academic (254 pages).
- (b) The U.S. Intelligence Community, by Lyman Kirkpatrick, Jr., New York, 1973. The view from the inside by one of the old timers in the intelligence business. A somewhat shallow, but quite reliable, survey (191 pages).
- (c) The CIA and the Cult of Intelligence, Marchetti and Marks, 1974. A comprehensive and current discussion of the issues, albeit highly one-sided and biased. The authors admit the utility of intelligence analysis in principle but come out strongly against covert operations (337 pages).
- (d) "The CIA and Decision Making" article by Chester Cooper in Foreign Affairs, 1972. A provocative paper on the problems of estimating and the relationship between intelligence and policy-makers (13 pages).
- (e) "Intelligence and Foreign Policy, Dilemmas of a Democracy," article by William Barnds in Foreign Affairs, January 1969. A wide-ranging paper on intelligence activities, covert action, and public attitudes (17 pages).
- (f) "Intelligence and Covert Operations: Changing Doctrine and Practice," unpublished article by Paul Blackstock based on a questionnaire circulated among former intelligence officials. It raises many of the basic issues and offers a multitude of differing opinions (126 pages).

Next 1 Page(s) In Document Exempt

July 19, 1974

SUBJECT: Study Plan - Intelligence and Covert Action

1. The Problem.

- (a) What organizational and procedural steps should be taken to improve intelligence support for the conduct of foreign affairs, and what level of effort is required to provide adequate support?
- (b) Should the U.S. have a capability for covert political action; if so, where should the responsibility be lodged and under what controls should it operate?

Some important intelligence matters, including especially an examination of the usefulness of intelligence support in a variety of foreign policy situations, will be addressed in the case studies of the Commission's Research Plan. But many aspects of the organization and procedures of the intelligence community also deserve separate and reasonably comprehensive study. The agencies are large, costly, and important to the conduct of foreign policy. Furthermore, there is disagreement about the roles they should play in the post-cold war era. Some of the issues involved have not been thoroughly examined by previous commissions.

The problem of intelligence generally breaks down into the following components:

- (a) The Role of Intelligence. What is the proper function performed by intelligence in support of the conduct of foreign policy; what should it do and what should it not do? Involved here is an analysis of the manner in which intelligence can give support to a wide variety of customers. It also calls for a review of misunderstandings and different perspectives that distort the relationship between intelligence users and intelligence producers and collectors.
- (b) The Activities Appropriate to that Role.
 - 1. In the process of analysis to produce "finished" intelligence, what are the roles best played by the State Department (INR),

DIA, other Agencies, and the various analytical offices in CIA. What should be the system for producing National Intelligence Estimates?

2. What is the best organization for the collection of raw information in support of intelligence analysis and of policymakers who set priorities, allocate missions, and control collectors overseas; how much collection is related to foreign policy as opposed to other purposes; what are the strengths and weaknesses of collection by Foreign Service Officers, CIA stations, military attaches, and technical sensors; what is the procedure of disseminating raw data; what are the mechanisms for insuring feedback to the collectors?

- (c) The Role of the Director of Central Intelligence. What is the most desirable relationship of the DCI to the President and the National Security Council; what should be the extent of his authority over the full range of intelligence programs, military as well as civilian.

In addition to the foregoing aspects of the intelligence function, the problem of covert political action, including its sensitive relationship to clandestine intelligence collection, must be closely examined.

The Commission's exploration of the problems of intelligence and of covert action in relation to the Organization of the Government for the Conduct of Foreign Policy is made particularly difficult by (a) the size and complexity of the intelligence community, (b) the intricacy of the relationship between the several components of the intelligence effort and policymaking, but particularly (c) the highly classified nature of the intelligence function and materials. For these reasons, a special and quite different study plan must be developed.

2. Study Plan.

A Study Group composed of two or three Commission members and a number of experts knowledgeable about intelligence matters, drawn from several different quarters, will prepare conclusions and recommendations for the Commission's review. The group will be equipped to deal with classified information.

Page 3

The Study Group will base its work on the findings of the case studies underway as part of the Commission's Research Program and on special preparatory materials developed by two complementary sets of studies.

The plan of study, therefore, falls into two stages:

STAGE I - Preparation of papers for the review of the Intelligence Study Group, as follows:

- (a) Analytical Issue Papers: Studies focused on specific issues, and problems prepared by informed observers from outside the intelligence community in accordance with the outline attached (TAB A). The research consultant supervisor is William R. Harris of Santa Monica, California. To the extent possible, this group of analytical issue papers will be unclassified although classified data will need to be reviewed in their preparation, including interviews with intelligence and policymaking officials.
- (b) A special "All Source Study," focused principally on findings and resulting changes of previous reports of the intelligence community. The "All Source Study" will be undertaken by the Intelligence Project Director, Kent Crane, with the assistance of a staff officer in accordance with the attached outline (TAB B). It is understood that this study must be handled in a special, limited access manner that would insure absolute protection of not only the security classification of the material but also agency views and plans which are understandably highly sensitive quite apart from classification.

The Deputy Director will assure that there is no duplication of interviews of agency personnel or requests for documentation on the part of those making the two sets of studies.

STAGE II - Intelligence Study Group to review the foregoing papers in conjunction with the findings of Research Program case studies, and to make recommendations on appropriate organization and procedures for intelligence support of the

Page 4

conduct of foreign policy. The Study Group may require a number of meetings at spaced intervals over two or three months period. Under the overall direction of the Executive Director, the Intelligence Project Director will coordinate the staff support for the Study Group, and collate the data for the Commission.

INTELLIGENCE ANALYTICAL ISSUE
PAPERSPaper #1, INTELLIGENCE FUNCTIONSAuthor: William J. BarndsCommentator #1: (to be determined, background
in intelligence production)Commentator #2: (to be determined, background
in policy uses of intelligence)Purpose: This paper would have two purposes:

(a) To define alternative, normative concepts of intelligence functions, and to link alternative conceptions of management responsibilities and functions. This paper would review the misunderstandings and different perspectives that distort the relationship between intelligence users and producers. In defining the proper function of intelligence, the author would stress the limits of the intelligence mission.

(b) To relate in broad terms the conceptions of function and performance to organizational and procedural alternatives. The paper would discuss the roles and relationships of the DCI; the NSC; the Intelligence Coordination Staffs, Committees, and Processes; and policymakers.

Research Methodology: review of literature on intelligence functions (Evans, Hilsman, Wilensky, Kent, Graham, etc.) interviews with selected intelligence producers and collectors (active and retired), policymaking consumers and military service consumers.

Anticipated length: 20-30 pages

Deadline for submission (in draft): September 9, 1974

Paper #2, INTELLIGENCE AND POLICYMAKING IN THE INSTITUTIONAL CONTEXTAuthor: William J. BarndsCommentator: to be determined

Purpose: This paper would relate the concepts of intelligence and the broad organizational and procedural alternatives (addressed in Paper #1) to the institutional mechanisms and practices of the Intelligence community. It would seek to address such questions as the following:

- If many of the demands of key consumers cannot be met, and if much of intelligence production is not read by the intended recipients, are there organizational implications?

- What is the need for mutual education of intelligence and policy officials?
- For the determination of production requirements and the process of analysis (estimative, current, and basic)?
- What should be done about the present intelligence requirements staffs?
- Can the intelligence system be reformed to provide more relevant, responsive products to consumer groups (more carefully differentiated) without compromising the independence or integrity of the intelligence analysts?
- How can analysts best be encouraged to initiate new intelligence products which are helpful to consumers?
- How can top quality analysts be retained and recruited for intelligence work?
- What are the responsibilities of policymakers to intelligence officers?

This paper would examine the role and performance of the NSC Intelligence Committee and other mechanisms for getting the consumers' points of view across to the intelligence community. It would also address the role of competition and coordination in intelligence analysis: in what areas is analytical duplication useful or counterproductive?

Research Methodology: Review of relevant/intensive interviews with intelligence producers, consumers, and other observers (below the level of the DCI or SecDef). All organization charts and descriptive reference material will be included in a detailed, classified appendix.

Anticipated length: 50-75 pages

Deadline for submission (in draft): September 27, 1974

Paper #3, INNOVATION IN INTELLIGENCE PRODUCTION

Author, Part I: Clinton W. Kelly, III

Commentator, Part I: Dr. Thomas Brown, Associate Head (Mathematics), The RAND Corp.

Author, Part II: to be determined

Commentator, Part II: to be determined

Part I: This paper would summarize prior work on probabilistic forecasting and scoring techniques to evaluate intelligence products and forecaster performance. Examples of experimental intelligence products would be included as a classified annex. The paper would differentiate between those topics which are particularly susceptible to quantitative analysis and those which are not.

Anticipated length: 30-40 pages

Deadline for submission (in draft): September 9, 1974

Part II: This paper would discuss new fields for intelligence research, such as environmental issues, certain aspects of economic intelligence (food production, climate forecasts, population studies, marine resources, etc.), international terrorism, and narcotics control. The paper would consider new consumers for intelligence support, not only within the U.S. Government but in international organizations such as the UN. The paper would also assess innovations in information processing, real-time consumer access, and alternative paradigms of analysis.

Anticipated length: 50-60 pages

Deadline for submission (in draft): September 9, 1974

Research Methodology: For Part I, revision of prior research. For Part II, interviews with methodology experts at the Center for Analytical Methodology, CIA, IC Staff, CCI, GPR, OSR, OER, OSD/NAG, etc. Both Parts I and II will be written on an unclassified basis, with classified appendices as necessary.

Deadline for submission (in draft): September 9, 1974

Paper #4, AUTHORITY FOR THE CONDUCT, AND MANAGEMENT OF FOREIGN INTELLIGENCE

Author: William R. Harris

Commentator #1: John T. Elliff, Brandeis University

Commentator #2: General Counsel, CIA

Purpose: This paper would discuss the constitutional and statutory base for foreign intelligence, with explicit reference to the National Security Act of 1947, the CIA Act of 1949, and the full range of NSC Intelligence Directives. The paper would address: the authority of the DCI and the IC Staff; the role of the President and Congress in delegating authority to collect intelligence information; the adequacy of the present authority for the conduct of covert operations

by the CIA and the DoD; the authority to collect information within the US; the authority to release information of commercial value; the authority to collect and disseminate information on international organizations and multinational corporations; the authority to exchange information with foreign governments; and the authority to protect intelligence sources and methods from unauthorized disclosure. The paper would suggest alternative approaches and discuss the pros and cons of recommending statutory reforms.

Research Methodology: This paper will be unclassified, though NSCIDs may be included as a classified appendix. Research will use public laws, Guide to CIA Statutes and Laws, legal commentaries, interviews with general counsels, and others involved in review of present authority.

Anticipated length: 40-60 pages

Deadline for submission (in draft): September 9, 1974

Paper #5, INTELLIGENCE RESOURCE MANAGEMENT

Author: Robert Macy

Commentator:

Purpose: This paper should address not only questions of efficient resource allocation but also the capacity of the DCI and others to make appropriate decisions and to manage resources appropriated to other agencies. The stress would be on these programs run by the Secretary of Defense on behalf of the national intelligence effort. The paper would examine the role of the Intelligence Resources Advisory Committee and the other committees that coordinate expensive and sensitive collections programs. What role should be played by OMB, the DCI, the IC Staff, PFIAB, and Congress? Is it practical to expect the DCI to exercise greater authority over the annual budget of the intelligence community and to set long range planning goals? Since the overwhelming share of the combined intelligence budget is expended by DoD agencies, with practical constraints upon intervention by the DCI or his IC Staff, what are the implications for the reorganization of DoD intelligence management? If there are systematic misallocations of resources, are there organizational or legislative reforms which are advisable? Alternative techniques for budgetary review of intelligence activities will be discussed. Alternative roles for intelligence consumers in determining intelligence expenditures or consumer-agency funds for acquisition of special intelligence products will be considered.

Research Methodology: review of relevant literature (Marchetti/Marks, etc.); interviews with budget specialists in DoD, IC Staff, OMB, and IRAC.

Anticipated length: 30-50 pages (with classified appendix discussing specific budget figures)

Deadline for submission (in draft): September 9, 1974

Paper #6, CLANDESTINE OPERATIONS AND COVERT ACTION

Author: to be determined

Commentator: to be determined

Purpose: This paper will discuss the pros and cons of maintaining a capability for covert action, and the criteria which ought to govern its use. The paper will explore the relationship between covert action and human intelligence collection in terms of cover, coordination, personnel, management, and control. The paper will address problems of command and control inherent in highly compartmented operations, and it will examine carefully the review process of the 40 Committee and other oversight groups.

Research Methodology: Review of the extensive (largely critical) literature on clandestine operations; interviews with DoD hierarchy as available. Emphasis on organization and procedure, rather than on any specific operations. Paper to be unclassified, but may contain classified annex.

Anticipated length: 40-60 pages

Deadline for submission (in draft): September 9, 1974

TAB B

All Source Study

Study Purpose. An "all source" study project will be mounted to prepare a limited access report of perhaps 30-50 pages of analysis, without recommendation, of past studies and reports on the intelligence community. Requests for interviews, documents, written questions and possibly for reasonable staff assistance may be made to the DCI. As with the complementary Analytical Issue Papers on Intelligence, the "All Source " project will be designed for the sole purpose of assisting the Study Group in arriving at findings and recommendations for review by the Commission.

Methodology. The Commission, with the assistance of the DCI, would obtain copies of a limited number of previous reports to be stored in the PFIAB vault. The Intelligence Project Director and a staff officer would carry out a number of interviews in order to judge the effectiveness of these studies and reforms and present an analysis of the critical elements for Study Group review.

Timing. Study to be completed by October 1.

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT
FOR THE CONDUCT OF FOREIGN POLICY

2025 M STREET, N.W.
WASHINGTON, D.C. 20506

August 7, 1974

25X1

MEMORANDUM FOR:

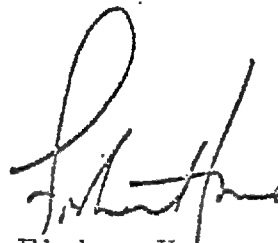
Intelligence Community Staff
Central Intelligence Agency

As you requested, I am providing information on our major research projects in progress, since some investigators working on these Studies may need to interview individuals in the Intelligence Community. You understand that these Studies, and therefore the interviews, are not related in any way to the Study Plan for the Intelligence Community about which we are separately in touch.

The projects are outlined in the State Department memoranda signed by William Galloway. The names included in the four memoranda have had a "name check" and have been granted a temporary SECRET clearance, unless they already hold a permanent clearance as indicated. The draft memorandum on the project on The Interaction of the United States and Foreign Economies will be sent by Galloway as soon as all name checks are completed. However, all those listed, except Edward Hamilton, Edward Skloot and Linda S. Graebner, have already been cleared.

Finally, a copy of the proposal for Alexander George's Study on Minimizing "Irrationality" in Foreign Policy-making is included for your use. As I mentioned to you, Professor George has a current RAND clearance through SECRET.

Thank you very much for your help.



Fisher Howe
Deputy Executive Director

Enclosures

P.S. William Bacchus is overseeing this project and he or I would want to assist further in any way we can in Tom Reckford's absence.

July 17, 1974

204175

MEMORANDUM

To: M/DG - Ambassador Davis
S/P - Mr. Lord
INR - Mr. Hyland
EB - Mr. Enders
S/S - Mr. Springsteen

Subject: Study on "The Effectiveness of Organizational Change" undertaken for the Commission on the Organization of the Government for the Conduct of Foreign Policy

Introduction and General Background

The National Academy for Public Administration, a non-profit organization of scholars and practitioners, Roy W. Crawley, Executive Director, is undertaking a major study under contract from the Commission on the Organization of the Government for the Conduct of Foreign Policy. The study will examine a number of attempts to reorganize various parts of the foreign affairs community in the past two decades, with the goal of better understanding the actual effects of such changes and the factors which account for those effects, anticipated and unexpected. This knowledge should help make it possible for the Commission to develop recommendations which are both informed by past experience and which can stand the test of practicality. This study is one of a number being conducted for the Commission, all of which will be used as background for its report.

Timing and Format:

This topic will be pursued through a number of case studies, under the general direction of a panel of experts which includes Amb. Edmund Gullion, Harold Seidman, Frederick C. Mosher, Warren Bennis, James W. Fesler, Wayne K. Thompson, and I. M. Destler. The cases and the investigators selected to date are:

Manlio De Angelis, "The Transition from ICA
to AID"

Leland Barrows, "The Peterson/Hannah AID
Reform Proposals"

Chester A. Crocker, "Changes in the N.S.C.
System - 1961 and 1969"

William T. McDonald, "The Wristonization Program"

William T. McDonald, "The Herter Committee Report
and its Consequences"

Erasmus Kloran, "The Evolving Role of the U.S.
Ambassador"

Dominick Del Guidice, "The Creation of the Council
on Foreign Economic Policy
(C.I.E.P.)"

Michael Harmon, "The Creation of the Arms Control
and Disarmament Agency (A.C.D.A.)"

Melbourne Spector, "Policy Planning - Improvement
Attempts"

A number of these projects will require consultation with officers of the Department who will be contacted between now and mid-September. It is anticipated that it will be possible for the investigators to obtain all the information they require on an unclassified basis, and the Commission intends that the report they prepare will be unclassified.

Contacts

The panel secretary and National Academy coordinator for the project is Melbourne Spector, telephone 659-9165. The Executive Director, Roy Crawley, may be reached at the same number. The Commission's project officer for the study is Dr. William I. Bacchus, telephone 254-9850.

William J. Galloway
William J. Galloway
Executive Assistant

FOR MANAGEMENT

WASHINGTON.

July 18, 1974

MEMORANDUM

To: NEA - Mr. Atherton
INR - Mr. Hyland
S/P - Mr. Lord
S/S - Mr. Springsteen

Subject: Study on "The Coordination of Complexity in South Asia," undertaken for the Commission on the Organization of the Government for the Conduct of Foreign Policy

Introduction and General Description

The Commission on the Organization of the Government for the Conduct of Foreign Policy has contracted with Professors Lloyd I. and Susanne Hoeber Rudolph of the University of Chicago, to lead a major study on the conduct of U.S. policy toward the Indian subcontinent from 1965 to the present. The emphasis will be on the capacity of the U.S. to maintain coordination among a large number of policies which impinge upon a single region. South Asia has been selected both because of the rich variety of issues which have arisen in the period under study, and the substantial presence of a number of U.S. agencies and activities there. The goal of the study is to produce answers to the question, "How adequate are current U.S. governmental organizational forms to insure adequate coordination in complex settings, i.e., in those in which many activities of high importance are conducted simultaneously?" Ultimately, the results of this research project will be used, along with those of a number of other studies, to provide background for the Commission's recommendations.

Timing and Format

The topic will be pursued through a number of individual case studies conducted by associates of the Rudolphs (see attached list for names and topics), and many officers

in the Department who have responsibilities which include South Asia will be contacted by one or more of these researchers between now and the end of September.

The Office of Security has granted name check clearances to these researchers on a "need to know" basis for access to classified material and information up through the category of SECRET. These clearances have been given on the explicit understanding between the Commission and the Department that the use of such information will not include the citation of materials or individuals. The researchers understand that they are to read classified materials in the Department and not ask to take them away.

Professor Glynn Wood of the Graduate School of Public Administration, American University, telephone 686-2343, will be acting as local coordinator for the project, and will make every effort to provide necessary additional information and to reduce the inconvenience to those individuals the researchers desire to interview.

The Commission's project officer for this study is Dr. William I. Bacchus, Associate Research Director, telephone 254-9850.

William J. Galloway
William J. Galloway
Executive Assistant

Attachment:

As stated

Topics and Persons

Diplomatic and Strategic

Philip Oldenburg, Assistant Professor of Political Science, University of Illinois (Urbana), "The Break-Up of Pakistan and Recognition of Bangladesh."

Roger Sack, Ph.D. student, Department of Political Science, University of Chicago, "U.S. Military Assistance and the Ayub Regime."

Gerald Heeger, Assistant Professor of Political Science, University of Virginia, "U.S. Policy Toward the Bhutto Regime."

Stephen P. Cohen, Associate Professor of Political Science, University of Illinois (Urbana), "Strategic and Military Dimensions of U.S. Relations with Asia."

Economic

Harinder Shourie, M.A. student, Committee on International Relations, University of Chicago, "The United States, the World Bank and South Asia."

Anthony Moulton, Ph.D. student, Department of Political Science, University of Chicago, "The United States, IDA and South Asia."

Susan G. Hadden, Assistant Professor of Political Science, Oakland University, Rochester, Michigan, "Assessment of a Bi-Lateral Economic Policy; AID's Program in Support of the Rural Electrification Corporation."

Stanley Kochanek, Professor of Political Science, Pennsylvania State University, "U.S. Commercial Policy Toward South Asia."

James Bjorkman, Research Staff Scientist, Health Policy Project and Ph.D. student, Department of Political Science, Yale University, "PL 480 Program AID in U.S.-South Asian Relations."

Cultural and Humanitarian

Charles Lenth, Ph.D. student, Department of Political Science, University of Chicago, "The Peace Corps in U.S.-South Asian Relations."

WASHINGTON

204174

July 22, 1974

MEMORANDUM

To: T - Mr. Maw
C - Mr. Sonnenfeldt
S/P - Mr. Lord
INR - Mr. Hyland
S/AJ - Ambassador Johnson
PM - Mr. Vest
S/S - Mr. Springsteen

Subject: Study on "The Adequacy of Current Organization for Security Policy (Defense and Arms Control)" for The Commission on the Organization of the Government for the Conduct of Foreign Policy

Introduction and General Background

Under contract from the Commission on the Organization of the Government for the Conduct of Foreign Policy, Professor Graham T. Allison, of Harvard University, is leading a major study on the adequacy of current organization for the conduct of policy in the Defense and Arms Control Area. He will be assisted by a number of other scholars, listed below. The objectives of the project also include assessing performance, and developing specific changes in the current organizational arrangements that would provide a more effective system for the formulation and implementation of foreign policy with respect to defense and arms control matters. The results of this study, together with a number of others also being undertaken for the Commission, will be used to provide background for the Commission's recommendations.

Timing and Format

This topic will be pursued through a number of individual case studies of specific decisions and projects, conducted by associates of Professor Allison. While a complete list of individuals and topics has not been set, it will include the following, with additional researchers and topics to be added later:

A. "The Making of Defense Budgets." Professor John P. Crecine, with others possibly to be added.

B. Weapons Acquisition.

1. "The Size and Mix of U.S. Strategic Forces in the 1960's." Professor Allison (has full clearance from DOD to TS), and Frederic A. Morris.
2. "MIRV." Allison, and possibly one other to be added.
3. "ABM." Morris, and possibly one other.
4. "Trident." John Steinbruner (has full clearance from DOD to TS).

Note: Cases in this category seem least likely to require State Department consultation, but some may be desirable. One or two additional cases may also be added.

C. Formulating Strategic Doctrine: "Nuclear Options." Professor Henry S. Rowen, Stanford Business School (has full clearance from DOD through TS).

D. Managing Alliances

1. "Troops and Costs: Offset Agreements, 1966, 1967, 1969." Gregory F. Treverton.
2. "The Production of Weapons Jointly (Skybolt)." Richard Neustadt (has full clearance through TS from DOD), Jay Philip Urwitz.
3. "The Production of Weapons Jointly (MLF)." Neustadt and Steinbruner.
4. "Base Agreements: Okinawa, 1967, 1969." Investigator to be added.
5. "Security Assistance (Aid and Sales): Taiwan." Henry B. Miller

3.

6. "Commitments and Expectations." Thailand 1961, 1970." Earnest May (has full clearance from DOD through TS).

E. "Establishing Arms Control Positions: SALT."

1. "SALT: 1968, 1969-72, 1972-74." Burton E. Rosenthal.
2. "CBW: 1967, 1969." Investigator to be added.

F. Others.

1. "Reorganizing Decision Making: Strengthening Unified Commands." Investigator to be added.
2. Several other cases to be added later.

While this project will focus most intensively on units of the government other than the Department of State, it is nevertheless likely that a number of the investigators will desire to conduct interviews with officers of the Department. A name check has been completed by the Office of Security for researchers listed on the basis of which they may consult documents within the State Department and discuss matters through SECRET, on a not for attribution or citation basis. Certain researchers already possessing full clearances through TOP SECRET are so indicated.

Contacts

General information on the project and the Commission can be obtained from Peter L. Szanton, Research Director, or William I. Bacchus, Associate Research Director, both at 254-9850. John Treat of the Commission Staff is acting as local coordinator for the research project and will be largely responsible for making necessary arrangements. He can also be reached at 254-9850.

William J. Galloway
William J. Galloway
Executive Assistant

DEPUTY UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

July 25, 1974

To: ARA-LA - Mr. Kubisch
S/P - Mr. Lord
INR - Mr. Hyland
EB - Mr. Enders
S/FW-COA
S/S - Mr. Springsteen

Subject: Study for the Commission on the Organization of the Government for the Conduct of Foreign Policy on "The Making of U.S. Policies Toward Latin America: The Variables Affecting "Routine" Relations"

Introduction and General Background

Dr. Abraham F. Lowenthal, of the Center for International Studies of Princeton University and the Council on Foreign Relations, is undertaking, in association with several colleagues, a major study for the Commission on the Organization of the Government for the Conduct of Foreign Policy. This study, which employs Latin America as a geographic focus, is intended to assess the relevance and utility of those "routine" activities which form the bulk of U.S. relations with most countries and of the means by which they are conducted. The results of this study, together with those of a number of others also being undertaken for the Commission, will be used to provide background for the Commission's recommendations.

Timing and Format

This topic will be pursued through a number of individual case studies of specific decisions and projects, conducted by associates of Dr. Lowenthal. The individuals and their projects include the following, with the possibility that one or two additional case studies will be added at a later date:

Dr. Edward Gonzalez, UCLA, "The 200-Mile Fishing Rights Controversy."

Mr. Gregory F. Treverton, Harvard, "The International Petroleum Company (IPC) Case."

Mr. Harry Weiner, Harvard, "The Role of Non-Governmental Interest Groups in U.S. Policy Toward Latin America: Brazil's 'Fifth Institutional Act'."

Mr. Harry Weiner, Harvard, "Personnel Skills and Requirements in the Middle-Range Bureaucracy."

Mr. Robert Pastor, Harvard University, "Sugar Politics: Domestic Causes and International Consequences."

It is likely that all of these researchers will desire to consult with officers in the Department who are knowledgeable about one or more of the topics in question, at some time between now and November. The Office of Security has granted name check clearances to these researchers on a "need to know" basis for access to classified material and information up through the category of SECRET. These clearances have been given on the explicit understanding between the Commission and the Department that the use of such information will not include the citation of materials or individuals. The researchers understand that they are to read classified materials in the Department and not ask to take them away.

Contacts

General information on the project and the Commission can be obtained from Peter L. Szanton, Research Director, or William I. Bacchus, Associate Research Director, both at 254-9850. Mr. Robert Pastor, one of the researchers on the project, is acting as local coordinator for the study, and will be largely responsible for making necessary arrangements. He can also be reached at 254-9850.

William J. Galloway
William J. Galloway
Executive Assistant

TO :

FROM :

SUBJECT: Study on "The Adequacy of Current Organization:
Interaction of U.S. and Foreign Economies,"
undertaken for the Commission on the Organization
of the Government for the Conduct of Foreign Policy

Introduction and General Description

The Commission on the Organization of the Government for the Conduct of Foreign Policy has contracted with Mr. Edward K. Hamilton, President, Griffenhagen-Kroeger, Inc., public management consultants, to lead a major study on the adequacy of current organization for the conduct of policy in the Economic area. Mr. Hamilton will be assisted by a number of consultants, all employees of Griffenhagen-Kroeger, as listed below. The objectives of the project also include assessing performance, and developing specific changes in the current organizational arrangements that would provide a more effective system for the formulation and implementation of foreign policy with respect to economic matters. The results of this study, together with a number of others also being undertaken for the Commission, will be used to provide background for the Commission's recommendations.

Timing and Format

This topic will be pursued through a number of individual case studies of specific decisions and projects, conducted by

Approved For Release 2005/02/17 : CIA-RDP78M02660R000800100008-2
associates of Mr. Hamilton. The current list of topics
and researchers is as follows:

1. The decision to terminate AID development lending to India (1971), Joan Hochman.
2. The suspension of AID's "additionality" rule (1969), William Seelbach.
3. The dollar devaluations of 1971 and 1973, Elizabeth Stabler.
4. One decision dealing with the effort to enter into trade with the Soviet Union, possibly the 1967 proposal for an East-West trade bill, Edward Skloot.
5. The imposition of import quotas on Canadian oil, (1970), Katheryn Voight.
6. The suspension of all import quotas on oil (1973), Katheryn Voight and Linda S. Graebner.
7. Two key decisions dealing with international monetary reform: (a) the decision to favor the creation of a man-made reserve assist (1965); and (b) the announcement of post SDR-U.S. objectives (1972).
8. The development of the U.S. position during the textile dispute with Japan (1970-'71), Peter Henschel.

9. The evolving role of the President's Special Trade Representative. Anne Rightor-Thornton.
10. Two domestic tax decisions with substantial implications for foreign economic policy;
 - (a) President Johnson's decision not to propose a tax increase in 1966; and
 - (b) President Nixon's decision to announce "new economic policy" in 1971.

Matthew Golden.

While this project will focus most intensively on units of the government other than the Department of State, it is nevertheless likely that a number of investigators will desire to conduct interviews with officers of the Department. A name check has been completed by the Office of Secretary for the researchers listed, on the basis of which they may consult documents within the State Department and discuss matters through SECRET, on a not for attribution or citation basis.

Contacts:

General information on the project and the Commission can be obtained from Peter L. Szanton, Research Director, or William I. Bacchus, Associate Research Director, both at 254-9850. Elizabeth Stabler, of this project's staff, is acting as local coordinator for the research project and can be reached at 232-3236.

Title of Proposed Study: Minimizing "Irrationality"
in Foreign Policy-making

Introduction

Alexander L. George proposes to undertake for the Commission on the Organization of the Government for the Conduct of Foreign Policy a study on minimizing "irrationality" in foreign policy making.

I. Objectives

The proposed study will follow closely the general purpose and scope of Study II.C, "Minimizing Irrationality," which was briefly described on page 13 of "The Commission's Studies Program" (3/21/74). To this end four interrelated objectives are set forth for the proposed study, as follows:

A. Identify and Differentiate Sources of "Irrationality"

"Irrationality" is a term loosely applied to a variety of quite different behavioral phenomena. The proposed study will avoid a narrow psychiatric approach to this problem. Instead, it will draw more broadly upon relevant work in political, behavioral, and psychological sciences in order to identify the variety of situational factors and behavioral patterns that can interfere with optimal procedures of search, evaluation, and choice in policy-making.

Impediments to "rationality" in policy-making can emerge (a) from certain dynamics of individual behavior; (b) from dynamics of small group behavior that affect the performance of policy-making tasks by advisers and staff personnel; and (c) from organizational and bureaucratic behavior in complex organizations such as the Executive Branch. Impediments to rationality often arise from these three sources during the course of efforts to cope with stressful experiences encountered in decision-making and policy implementation.

The study will draw together in a detailed, systematic way available knowledge regarding the variety of maladaptive ways with which individuals, small groups, and organizations often attempt to cope with different kinds of stress. The following sources of maladaptive adjustments to stress will be examined:

- (1) Maladaptive responses to "cognitive stress" and "value stress" generated by the intellectual difficulty of dealing with the well-known limits on the ability to evaluate the expected consequences of policy alternatives in order to decide which course of action is "best";
- (2) Maladaptive ways of coping with stress generated in international crises and when making fundamental foreign policy choices in non-crisis situations by the perception of major threats to important national (and personal) values;
- (3) Maladaptive adjustments to stress generated by organizational and role conflicts experienced by individuals occupying key points in the policy-making system;
- (4) Maladaptive ways of coping with the psychological and physiological effects of fatigue;
- (5) Maladaptive responses to "secrecy" on the part of those who do and do not have access to highly classified information (including the related question of the adverse impact differential access can have on the working relationships of those participating in the policy-making system).

B. Impact on Policy-making Tasks

While knowledge of the sources of possible impediments to rational policy-making is of some value, it cannot easily be utilized to prevent the occurrence of potentially disruptive individual, small group, or organizational dynamics. Rather, the emphasis must be on neutralizing, or compensating for, the adverse impact various sources of "irrationality" can have upon policy-making. Accordingly, the proposed study will attempt to indicate in some detail how different kinds of impediments to "rationality" manifest themselves at what points in the search for effective policies and their implementation.

The study will draw together available knowledge of this kind with the expectation (1) that it will serve to sensitize participants in policy-making to the problem, thereby improving their ability to recognize in a timely fashion the intrusion of disruptive factors on policy-making tasks, and (2) that it will help those who specialize in developing and managing policy-making

systems to devise strategies for timely and appropriate "interventions" to prevent such factors from having a damaging effect on the search for effective policies and decisions.

C. Implications for Monitoring and Managing the Policy-making Process

Having identified the types of "malfunctions" a policy-making system can suffer via intrusion of different kinds of "irrationalities" the study will indicate ways in which the tendencies toward such intrusions might be countered. Such recommendations will emphasize means of monitoring the policy-making process in order to obtain timely identification of emergent malfunctions and to undertake appropriate corrective or countervailing actions. These critical role tasks must be infused into the definition of roles to be performed by certain participants in the policy-making system.

Thus the study will focus most closely on minimization of "irrationality" through close monitoring and effective management of the day-to-day workings of the policy-making system. This is in sharp contrast to the traditional practice of relying upon periodical structural reorganization of the policy-making system whenever sufficient dissatisfaction with its performance has accumulated. The recommendation of certain structural changes is not precluded, however.

D. Variation in Executive Operating Styles

The study will take into account that each executive is likely to have a somewhat different notion as to the kind of policy-making system and procedures he wishes to create around himself, feels comfortable with, and can utilize. This observation has become part of the conventional wisdom in recent years, but its full implications for the design and management of policy-making systems remains to be determined. This objective is of importance not only for Study II.C but possibly in other studies undertaken by the Commission as well.

It is questionable wisdom to try (as specialists in organization and public administration have advocated in the past) to impose a single standardized model of policy-making on each executive. The proposed study, it will be noted, is entirely consistent in this respect with the observation on page 4 of the Commission's Studies Program to the effect that organizations "should be designed to fit the operating styles of their key individuals, and not vice versa."

Accordingly, the proposed study will move in the direction of developing somewhat different models of policy-making that are appropriate to the distinctive management "styles" of different executives.

II. Methodology/Approach

A large body of relevant empirical and theoretical work in political, behavioral, and psychological sciences will be screened and evaluated from the standpoint of the objectives of the study. Several detailed appraisals of this kind have been made in recent years by the principal investigator and other scholars. The proposed study will draw upon them and supplement with additional library research and consultation with specialists in these several fields in order to expedite the search for relevant up-to-date high quality material.

Where appropriate and feasible -- and in consultation with the Commission's research director -- the principal investigator will arrange to interview current and former foreign policy officials in order to obtain additional information and judgment bearing on the objectives of the study.

The principal investigator plans to draw into the study the contribution of a number of part-time consultants. A preliminary conference will be held in mid-June with some six specialists to help plan the study in more detail.

The principal investigator will be responsible for requesting specific inputs to the study from consultants and for integrating them into the final report.

III. Personnel

A relatively large number of specialists will be contacted during the course of the study. Some will be asked for specific inputs on a consulting basis. Decisions on this will be made after the planning conference, and will depend of course on how much time the persons in question have available, what they are interested in doing, how well it will contribute to the objectives of the study. Among those who have indicated interest in attending the mid-June planning conference and who have some available time for possible consulting during the summer are Charles Hermann, Ole Holsti, Robert Jarvis, Richard Smoke, and John Steinbruner.

In addition, Graham Allison and Irving Janis (?) -- both currently at the Center for Advanced Study in the Behavioral Sciences at Stanford -- will sit in on at least part of the planning conference. Other specialists who will be contacted include Thomas Schelling, Lincoln Bloomfield, Doris Kearns, David Hamburg, Chris Argyris, Eugene Webb, James March, Richard T. Johnson.

IV. Administrative Arrangements

Alexander L. George will direct the study and will be the principal investigator. He will work virtually full time on the study from mid-June to the end of September, and one or two days a week as necessary thereafter until completion of the final report towards the end of December.

The contract will be administered by Stanford University.

V. Finished Product

The final report will reflect the objectives of the study and discuss the relevant materials and findings in considerable detail. The report will include a general statement of conclusions and recommendations of approximately 10-20 pages. The report as a whole can be expected to be well over 100 pages.

VI. Schedule

- a. Final project outline -- July 15
- b. detailed progress report -- August 15
- c. a substantial review draft -- October 15
- d. final report -- December 20.

[This schedule is tentative and permits of some adjustments.]

VII. Budget

Summary

RESEARCH PROGRAM

Phase I Studies

The Utility and Limits of an Organizational Approach: Given that organizational patterns necessarily vary with differing key personalities and differing policy concerns, what kinds and degrees of organizational change can the Commission propose in the absence of knowledge about either future U.S. political leadership or of the dominant policy concerns of the near future?

The Problems Commonly Cited: What are the major criticisms commonly made about the conduct of foreign policy, in particular substantive areas (e.g., economic, cultural); functions (planning, implementation, etc.), resources (budgets, personnel); and other categories?

The Future Environment: What are the major alternative future environments which current developments may foreshadow, in which U.S. foreign policy will operate over the next decade; what policy problems may prove paramount, and what functions, resources, and organizational arrangements may be most severely taxed in such circumstances?

Lessons of Prior Studies: What have been the issues addressed, the recommendations made, and the factors which have determined the impact and degree of success of each of the major studies of foreign affairs organization since 1945?

Characteristics of an Effective Foreign Policy System: What characteristics should any effective system for the conduct of the nation's foreign policy possess?

Alternative Models of Organization: What alternative patterns of both Executive and Legislative Branch organization for the conduct of foreign policy seem plausible, and what are the likely relationships between various combinations of Executive and Congressional models?

Comparable Patterns of Other Governments: What aspects of organization for the conduct of foreign policy in other nations can provide lessons applicable to U.S. conditions? (This study will be selective in the features of the practice of other countries which it examines.)

RESEARCH PROGRAM

Phase II Studies

The Effectiveness of Organizational Change: What makes organizational change effective in meeting intended purposes, as suggested by examination of a number of prior attempts at such change in the foreign affairs area of the U.S. Government?

Adequacy of Current Organization: How effective has current organization for policymaking been in recent administrations as suggested by a review of a large number of recent decisions and actions in each of the following areas:

1. The Interaction of U.S. and Foreign Economies: How well does the U.S. Government succeed in conducting policy which reflects both domestic necessities and the realities of the international economic system?
2. National Security Issues: How well do we balance foreign policy implications, economic and budgetary impact, and national security requirements, in decisionmaking on defense-related topics?
3. Coordination in Complex Settings: How adequate are current U.S. Government organizational forms to insure coordination where many activities of high importance are conducted simultaneously? (South Asia has been tentatively selected as the geographic focus for this study.)
4. Multilateral and Global Issues: How well organized is the U.S. Government to develop and conduct policy dealing with that group of increasingly prominent issues which tend to be global in nature, contain both domestic and international implications, cross traditional jurisdictional lines, and involve important technical components (e.g., multinational corporations, seabed policy, environment, population, food)?

Toward Greater Rationality: What organizational steps can be taken to minimize vulnerability of officials to political, bureaucratic, organizational, physiological, and psychological pressures in both crisis and routine situations?

Conduct of Routine Relations: How adequate are current organizational arrangements to manage continuing and reasonably routine relations, which nevertheless can substantially shape U.S. foreign relations? (Latin America has been tentatively selected as a geographic focus for this study.)

Resources for Foreign Affairs: How well is the government organized for identifying and providing the resources needed to carry out the nation's foreign policy effectively?

1. Personnel: What types of personnel are needed for the effective conduct of foreign affairs, and what organizational and procedural steps should be taken to improve foreign affairs personnel systems?
2. Budgets and Resource Management: What organizational and procedural steps should be taken to improve the budget processes related to foreign affairs, and to mesh policymaking and resource utilization more effectively?

OTHER STUDIES/PROBLEMS

Confidentiality and Security Classification: What organizational and procedural steps can be taken to limit classification of information relating to the conduct of foreign policy to the minimum clearly required by the needs of national security?

Public Opinion and Public Information: What are the responsibilities of the Executive Branch to inform the American people about the conduct of foreign affairs, and to assure -- other than through the Congress -- that actions taken are broadly consistent with the public sense of the nature of U.S. interests and the means legitimate to advance those interests; and what organizational steps are necessary to fulfill these responsibilities?

Intelligence: What organizational and procedural steps should be taken to improve intelligence support for the conduct of foreign affairs, and what level of effort is required to provide adequate support?

1. Covert Political Action: Should the U.S. have a capability for covert political action overseas and if so, under what safeguards and organizational responsibility?
2. Overseas Establishments: How can U.S. representatives abroad and to multilateral organizations be most effectively organized and controlled?
3. Cultural Affairs Programs: What should be done with respect to reanalysis of basic concepts, organizational modification, classification of jurisdictions and coordination mechanisms, and improvement of procedures to make cultural affairs programs more effective?
4. Foreign Information Programs: What should be done with respect to reanalysis of basic concepts, organizational modification, clarification of jurisdictions and coordination mechanisms, and improvement of procedures to make foreign information programs more effective?
5. Foreign Assistance Programs (Development and Security): What steps are necessary with respect to basic concepts, organization, jurisdictions, coordination mechanisms and procedures to make both developmental and security assistance programs more effective?

SUMMARY

Mr. William E. Colby, Director of Central Intelligence

11/19/73

I. Introductory Remarks

Mr. Colby began his informal remarks by addressing the dilemma of maintaining secrecy in a free society: "we are going to have to run an American intelligence service," but it must be "different from others." It has no domestic responsibility, and it is more open than its counterparts in Britain, France, Sweden, or anywhere else. Indeed, the CIA's constant exposure in the press makes it difficult to conduct liaison with foreign intelligence services and to recruit agents. It can also affect our use of such technical collection methods as cryptography and photography.

Colby then traced the history of intelligence in the U.S. He pointed out that the government invariably constructed an intelligence system in wartime, then dissolved it afterwards. It took the advent of the Cold War to produce a peacetime intelligence apparatus. The National Security Act of 1947 established the CIA and gave it the responsibility to draw together information collected by other services and Departments. In addition, the CIA was given the authority to conduct certain services of common concern and, as directed by the National Security Council, "other functions related to intelligence", such as clandestine collection operations abroad as well as paramilitary and political operations.

According to Colby, intelligence has come of age but must prove its usefulness in a period of detente and lessened tensions overseas. He believes that intelligence has become an essential part of the conduct of foreign policy but that those in the intelligence business must work hard to make the system work. Colby explained that his responsibility for coordinating and managing the intelligence community was important, but less so than his responsibility for producing substantive intelligence... "to be able to inform the President, the NSC, the appropriate committees of Congress and so forth, of what is happening in the world." He added that, if he could focus on the substance and get the entire community also focussed on substantive questions, he would be in the best position to allocate resources and to measure the effectiveness of different techniques of collection, processing, and analysis.

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Colby pointed out that the intelligence community must develop a systematic way to evaluate the usefulness of its products to its customers. He said that he would put his major effort into identifying the key substantive problems and evaluating how well the community handles them.

Colby added some general remarks about the entire intelligence process. Collection of information includes listening to Radio Moscow, planting bugs, etc. Processing the information is also very complicated, sometimes involving highly technical work. "You really wouldn't believe what some of those engineers can get out of small little squiggles that come out of the airwaves." The last part of the process is "the production or presentation problem... It doesn't do any good for the intelligence community to know the answers and even to write a very learned tome giving the answers, if the tome is in a fashion that cannot be absorbed and actually used by the fellows making the decisions."

II. General Discussion

a. The Reputation and Image of Intelligence

Chairman Murphy asked what was being done, or should be done, to give the word "intelligence" a better reputation. Mr. Colby replied that a full scale public relations campaign was not the answer. Rather the CIA should concentrate on doing its work well and, whenever possible, on educating people about the real nature of the intelligence process.

Mr. Casey pointed out that the public should be told about the importance of the research and analysis function and about the number of Ph.D's and other specialists who work on intelligence. Colby replied that the CIA encourages its personnel to belong to professional societies and to attend conferences, and that it is moving in the direction of producing more unclassified publications. He added that the CIA should do more work in an unclassified form.

b. Congressional Oversight and Substantive Briefings

Senator Mansfield asked Colby whether he favored creation of a Joint Congressional Committee on Intelligence to throw a protective shield around the CIA and to keep Congress informed about crisis situations. Colby replied that the CIA "has always taken the position that we will handle our relations with Congress in any way that Congress

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wants us to." He later remarked that the Congressional oversight committees have been very responsible and "have been given the most sensitive kinds of information... We have never had a leak from them."

Colby explained that the CIA handles its relationship with Congress on three levels: unclassified briefings; substantive briefings, with classified material, for a number of committees and for individual members; and a discussion of operational matters with the Armed Services and Appropriations Committees of the House and Senate. In the last few years of Senator Russell's rule over the Armed Services Committee, Senator Mansfield and two other members of the Foreign Relations Committee were also invited to participate in the oversight hearings.

Dr. Abshire pointed out that there should be a better system for giving substantive information to interested members. Colby said that the CIA does brief individual Congressmen and Senators upon request and that he had committed himself in his confirmation hearing to be even more responsive in this area. He said, "I have some people looking now at a way to do this on a regular, periodic basis... It will...push some of this material towards them that they really might not know they want to know." Dr. Abshire suggested that, every six weeks, intelligence briefers might give interested members of Congress a general rundown of world events and stress emerging problems. Colby said he would be delighted with this approach.

Dr. Abshire then asked Colby for his views on Senator Cooper's bill about National Intelligence Estimates being made available to Congress. Colby replied that briefings of Congress are often based on NIE's, but that he was concerned about the physical security of the NIE's themselves and leery about sending NIE's to Congressional staff assistants, who might be prone to leak intelligence information. Colby was hesitant about absolute rules in this regard and suggested that briefings be handled orally whenever appropriate. He added, however, that the CIA could adjust to any changes in Congressional procedures on this matter.

c. The Relationship of Intelligence to Foreign Policy

Mr. Colby suggested that the CIA should maintain a certain distance from the foreign policy process -- providing assessments of foreign situations but not casting a vote for a particular policy. Dr. Kissinger regularly requires

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an intelligence briefing before meetings of the Washington Special Action Group. After that, Colby says no more.

Colby added that the President reads intelligence daily briefs and other material. Furthermore, Colby can see the President any time he wants (as of November, he had seen him on intelligence matters three or four times).

Dean Wilcox asked whether Colby received ample reports on the discussions of the President and Dr. Kissinger with high level foreign officials. Colby said he personally is privy to the general line and must levy requirements on the intelligence community without giving any details.

d. Organization of the Intelligence Community

When asked about the extent of his own authority, Mr. Colby described his role in the community. As DCI, he chairs the U.S. Intelligence Board, the Intelligence Resources Advisory Committee, and various other committees that pass on certain sensitive collection programs. Colby also has the last word on National Intelligence Estimates. He is, in short, the President's principal intelligence advisor...the only one who regularly attends meetings of the various NSC subcommittees, the WASAG, the 40 Committee, and the Cabinet. Colby is also Vice-Chairman of the NSC Intelligence Committee, which is designed to solicit the views of intelligence consumers.

Colby said that relations between the intelligence agencies used to be competitive, but now are maturing. There are, however, "many areas in which we can work together much better," e.g. in coordinating the activities of military attachés. Colby explained that different agencies have to be involved in the process of collecting information. Foreign Service Officers and attachés have unique contacts abroad and can collect a lot of information overtly. The CIA's job is to collect information clandestinely that cannot be collected any other way.

Colby admitted that there was some overlap in functions, but that this was often deliberate. Thus the CIA's office of Strategic Research takes on independent look at basic military questions. Furthermore, each agency or Department head insists on having his own intelligence support. Said Colby, "when I go to the President with an assessment of some new Soviet missile...I have to be assured that I am right...and not just parrot what a particular agency says." There is also a distinction

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between national intelligence (in support of foreign policy) and departmental intelligence (in support of individual departments and agencies). DIA, for example, contributes to national intelligence but also serves the Joint Chiefs and the Secretary of Defense.

Colby pointed out that the total number of people in the intelligence business is going down sharply and will continue to do so. It has to because of sharp annual increases in personnel costs.

Colby said it was useful to have analysts, collectors, and operators all under one roof. He likes experts in one field talking to experts in another, and not hiding in their ivory towers. The National Intelligence Officers (NIO's - successors to the Board of National Estimates) cut across functional lines within the bureaucracy and thus get the best brains working on any given problem. The NIOs are real specialists in their fields (and not generalists like the former Board of National Estimates).

When asked what organizational changes he would recommend, Colby said that he would like the authority to deter someone from getting sensitive information out, then spilling it (e.g., the Maroetti/Marks Case). When asked about the National Security Act of 1947, Colby recommended that the word "foreign" be put before the word "intelligence," so the public would be reassured about the limits of CIA authority. 25X1

25X1

g: Covert Action

Mr. Colby said that covert action overseas was a valuable tool that had been at times overused. In the 1950's, for example, there was a "missionary feeling" about these operations and a sense that "we had to go out and fight every fight around the world. Obviously we have a different policy now, a much more reserved policy."

On the subject of controls over covert action, Colby said that "we don't do this without getting very specific instructions from the NSC," via the 40 Committee (an interagency group chaired by Dr. Kissinger). If the CIA is asked to carry out some covert action or believes one should be carried out, it will write a paper describing the problem and what needs to be done. This paper is then circulated to the members of the 40 Committee, who either get together to discuss it or sign off on the program by telephone. It then goes to the President for approval.

When asked whether Congress is also informed, Colby said that budgetary details are discussed with the appropriations committees and general plans are discussed with the Armed Services Committees. All significant operations are described.

h. Paramilitary Operations: The Laos Example

Mr. Colby described the CIA's role in Laos as an effort to carry out policy in non-attributable, non-official, non-military terms. "Obviously it got to be a very noisy war," but "so long as you don't confront the other side with the necessity of reacting because of your open approach to a problem...that is accepted." When asked about the negative reaction of many Americans to CIA involvement in Laos, Colby replied, "I think it is a good thing, because the pressure is such that it requires you to operate secretly only where there is a very good reason. And, if there isn't a good reason, you just don't do that in our society, and that is fine."

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i. Indo China in General

Senator Mansfield said that, in his opinion, the best intelligence reports on Vietnam were furnished by the CIA, and it was too bad that these reports were not given proper attention by the administration.

Senator Mansfield asked whether the CIA played a part in the overthrow of Prince Sihanouk. Colby said that "Sihanouk is under an understandable misapprehension that we tried to overthrow him in 1959... A General in the Cambodian Army did try to overthrow him... we had one officer who was in contact with an associate of that General for intelligence purposes, because we were curious as to what was going on... As to his overthrow in 1970, we did not have anything to do with it."

When asked about the drug traffic in the Golden Triangle, Colby said that the CIA has tried to keep itself from being involved in the drug traffic in that area and has vigorously worked against it. The Meo in Laos did produce opium. We supported the Meo against the North Vietnamese. We, however, spent a good deal of our effort to get them out of the opium business. The CIA also has caught a few drug traffickers and closed down some refineries.

COVERT ACTION

- A. Statement of Mitchell Rogovin before the House Select Committee on Intelligence (9 December 1975) on Constitutional, Statutory, and Legal Basis for Covert Action
- B. Legal Memorandum on Constitutional Powers of the President with Respect to Covert Action
- C. Fact Sheet Prepared Concerning Amendments to the Foreign Assistance Act which would have Prohibited Covert Action Programs Involving the political, Electoral Process and Assassination
- D. Article on Covert Action by Art Jacobs in Freedom At Issue
- E. Article by Melvin Laird on CIA in Readers Digest
- F. Article by Dr. Ernest W. Lefever, entitled "The CIA and American Foreign Policy" from the Lugano Review
- G. Selection of Historical Examples of Covert Intelligence Operations

As defined by the Senate Select Committee, covert action is
"any clandestine operation or activity designed to influence foreign
governments, organizations, persons or events in support of United
States foreign policy."

Statement of
Mitchell Rogovin
before
The House Select Committee on
Intelligence

December 9, 1975

October 24, 1975

Re: The Constitutional, Statutory and Legal
Basis for Covert Action

By means of explicit, formal instructions to the Director of Central Intelligence, the President and the National Security Council have directed that the Central Intelligence Agency assume responsibility for planning and conducting "covert action" in support of this country's foreign policy objectives. / The legal authority for the delegation of this responsibility to the CIA derives from three fundamental sources, each of which, in itself, constitutes a sufficient legal basis for the delegation. The three fundamental sources are: (1) the inherent constitutional power of the President with respect to the conduct of foreign affairs; (2) the National Security Act of 1947; and, (3) the ratification, by Congress, of the CIA's authority to plan and conduct covert action.

The major portion of this memorandum is devoted to an analysis of these fundamental legal sources. Before proceeding with this analysis, however, it is useful to set forth a description of the kinds of activities which are comprehended by the term "covert action."

I. COVERT ACTION DEFINED

In general terms covert action means any clandestine activity designed to influence foreign governments, events, organizations or persons in support of United States foreign policy, conducted in such manner that the involvement of the United States Government is not apparent.

There are four general categories of covert action:

(1) Covert Political Action or operations designed to exercise influence on political situations in foreign countries; this could involve funding a political party or other group, or the use of an agent in a high government position to influence his government's domestic or foreign policy in a manner beneficial to the United States;

(2) Covert Propaganda or the covert use of foreign media assets including newspapers, magazines, radio, television, etc., to disseminate information supporting United States foreign policy or attack the policies and actions of foreign adversaries;

(3) Intelligence deception operations involving the calculated feeding of information to a foreign government or intelligence service for the purpose of influencing them to act or react in a manner favorable to our purpose; and

(4) Covert paramilitary action, the provision of covert military assistance and advice to foreign conventional and unconventional military forces or organizations.

II. FUNDAMENTAL SOURCES OF LEGAL AUTHORITY FOR CIA TO ENGAGE IN
COVERT ACTION

As indicated above, the legal authority for the delegation of covert action responsibility to the CIA by the President and the National Security Council derives from three fundamental sources: (1) the inherent constitutional power of the President with respect to the conduct of foreign affairs; (2) the National Security Act of 1947; and, (3) the ratification, by Congress, of the CIA's authority to plan and conduct covert action. Each of these fundamental sources is discussed separately below.

A. INHERENT CONSTITUTIONAL POWER OF THE PRESIDENT WITH RESPECT
TO FOREIGN AFFAIRS

The Supreme Court, the Congress, and the framers of the Constitution itself, have all recognized that the President possesses broad powers with respect to the conduct of foreign affairs. No less a constitutional authority than John Marshall, in an address to the House of Representatives, declared:

"The President is sole organ of the nation in its external relations, and its sole representative with foreign nations."*/

The United States Senate, at an early date in its history, acknowledged the supremacy of the President with respect to foreign affairs, and recognized that he has broad powers in that area. In 1816, the Senate Foreign Relations Committee issued a report which concluded:

*/ 10 Annals of Congress 613 (1800), reprinted in 5 Wheat. Appendix note 1, at 26 (U.S. 1820).

"The President is the constitutional representative of the United States with regard to foreign nations. He manages our concerns with foreign nations and must necessarily be most competent to determine when, how and upon what subjects negotiation may be urged with the greatest prospect of success." */

Each of these statements was cited approvingly by the Supreme Court in United States v. Curtiss-Wright Export Corp., 299 U.S. 311 (1936). In that case, the Court upheld the power of the President to proclaim it unlawful for United States citizens to supply arms to any of the belligerents in the Chaco War in South America. Although the Court could have rested its opinion solely on the grounds that the proclamation was issued pursuant to a Joint Resolution of Congress, it cited the statements of Marshall and the Senate Foreign Relations Committee excerpted above and spoke at length of the inherent constitutional powers of the President with respect to foreign affairs. Specifically, the court spoke of:

"[T]he very delicate, plenary and exclusive power of the President as the sole organ of the Federal government in the field of international relations--a power which does not require as a basis for its exercise an act of Congress..." 299 U.S. at 320.

The Court has frequently reaffirmed the constitutional doctrine set forth in Curtiss-Wright that the President is supreme in the area of foreign affairs and that his powers in that area are "plenary." For example, in United States v. Pink, 315 U.S. 203 (1942), a case in which the Court upheld the power of the President to recognize

*/ 8 U.S. Sen. Reports, Comm. on Foreign Relations, p. 24.

foreign governments and to conclude executive agreements with them which have the force of domestic law, the Court repeated that "the President...is the 'sole organ of the Federal government in the field of international relations.'" 315 U.S. at 230. Then the Court added:

"Effectiveness in handling the delicate problems of foreign relations requires no less. Unless such a power exists, the power of recognition might be thwarted or seriously diluted. No such obstacle can be placed in the way of rehabilitation of relations between this country and another nation, unless the historic conception of the powers and responsibilities of the President in the conduct of foreign affairs...is to be drastically revised." Id.

Pursuant to this "historic conception of the powers and responsibilities of the President in the conduct of foreign affairs," the Court has made it clear that the President may: proclaim it unlawful for United States citizens to supply arms to foreign belligerents, Curtiss-Wright, supra; recognize foreign governments and conclude binding executive agreements with them, Pink, supra; use military force to protect United States citizens and property abroad, In Re Neagle, 135 U.S. 1, 64 (1890); and repel an armed attack by meeting "force with force," Prize Cases, 2 Black 635, 668 (1862).

The Court has never considered the precise question of whether the President may direct an agency of government to perform covert action in foreign countries. However, in view of the Court's recognition of the broad powers of the President with respect to the conduct of foreign affairs, and in view of the overwhelming historical precedents, it is clear that the President does have this power.

The historical precedents are every bit as compelling as the strong language used by the Supreme Court. Chief among these precedents is the longstanding practice whereby Presidents, acting on their own authority, have dispatched troops to foreign countries and authorized the use of military force short of war. This practice was originated by Thomas Jefferson when he, on his own authority, sent the Navy to combat the Barbary pirates in an effort to protect American shipping. By 1970 it was estimated that Presidents, on their own authority, had asserted the right to send troops abroad in "more than 125" instances differing widely in purpose and magnitude.*/ Although the Constitution vests Congress with the power to "declare" war (Article I, Section 8, Clause 11), Presidents have, throughout history, insisted on and exercised their right to use force short of war. President Taft, who later served as Chief Justice of the Supreme Court, wrote:

"The President is the Commander-in-Chief of the army and navy, and the militia when called into the service of the United States. Under this, he can order the army and navy anywhere he wills, if the appropriations furnish the means of transportation."**/

*/Background Information on the Use of United States Armed Forces in Foreign Countries, 1970 Revision by the Foreign Affairs Division, Legislative Reference Service, Library of Congress, for the Subcommittee on National Security Policy and Scientific Development of the House Committee on Foreign Affairs, 91st Cong. 2d Sess.

15 et seq. and Appendices I and II, (hereafter, "Background Information.")

**/Taft, W. H., Our Chief Magistrate and His Powers, pp. 94-95 (1916).

Recent examples of presidential use of force short of war include: President Truman's peacetime stationing of troops in Europe; President Eisenhower's sending of Marines to Lebanon in 1958 to prevent foreign intervention in the affairs of that country; President Kennedy's imposition of a naval "quarantine" on Cuba during the 1962 missile crisis, and his sending of planes to the Congo to evacuate civilians in 1960; President Johnson's sending of troops to the Dominican Republic in 1965 to prevent formation of a hostile government;*/ and, President Ford's use of force against Cambodia in 1975 to obtain the release of American seamen held by Khmer Rouge troops.

Congress has formally acknowledged that the President has inherent constitutional authority to use military force short of war. This acknowledgment is implicit in the War Powers Resolution, which became effective on November 7, 1973.** In Section 3 of that Resolution, it is provided that:

"The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations."

Moreover, the Resolution specifically states, in Section 8(d)(1), that it is not intended in any way to "alter the constitutional authority" of the President:

*/Background Information, *supra*.

**/Public Law 93-148, 87 Stat. 555.

"Nothing in this joint resolution--

"(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties..."

If the President has the power to dispatch troops to foreign countries and to use military force short of war--and the foregoing discussion clearly demonstrates that he does--then it would logically follow that he has the power to send civilian personnel to foreign countries to engage in covert action, since such action is rarely, if ever, as drastic as the use of military force. In fact, the historical precedents in support of the President's power to conduct covert action in foreign countries are every bit as clear as those in support of his power to use military force.

Long before the CIA was established, Presidents, acting on their own authority, directed executive agents and executive agencies to perform what has come to be known as covert action. Beginning with George Washington, almost every President has appointed "special agents" to engage in certain activities with, or against, foreign countries; although the activities conducted by these executive agents have included such overt assignments as negotiating treaties and conferring with wartime allies, they have frequently included covert action as well. In the first century of the nation's existence alone, more than 400 such agents were appointed by the President.*/

*/S. Doc. No. 231, 55th Cong., 2d Sess, part 8, at 337-62 (1901);
H.R. Doc. No. 387, 66th Cong., 1st Sess, part 2, at 5 (1919).

Early examples of covert action performed by these agents are legion. The following three are typical: (1) in 1843 President Tyler secretly dispatched an agent to Great Britain to meet privately with individual government and opposition leaders and to attempt to influence public opinion with respect to matters affecting the two countries, without ever disclosing that he was a representative of the United States Government; (2) in 1845, when President Polk feared that Mexico was on the verge of ceding California to Great Britain, he secretly dispatched an agent to California for the purpose of "defeating any attempt which may be made by foreign governments to acquire a control over that country;" (3) in 1869, when the United States had territorial designs on central and western Canada, President Grant sent an agent to that area to foment sentiment for separation from Canada and union with the United States.*

These examples show that the practice of appointment of special agents by the President for the purpose of conducting covert action in foreign countries is deeply-rooted in our national history. The practice is so deeply-rooted that historians have acknowledged the existence of a broad presidential discretion with respect to appointment of such agents and assignment of functions to them. According to Henry M. Wriston, for example:

*/Wriston, Henry Merritt, Executive Agents in American Foreign Relations, Baltimore, Md., Johns Hopkins Press (1929), reprinted Gloucester, Mass., Peter Smith (1967).

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in his conduct of foreign relations, none is more flexible than the use of personal representatives. He is free to employ officials of the government or private citizens. He may give them such rank and title as seem appropriate to the tasks....He may send his agents to any place on earth that he thinks desirable and give them instructions either by word of mouth, or in writing, or through the Department of State, or in any other manner that seems to him fitted to the occasion...

"Their missions may be secret, no one ever being informed of them....The President may meet their expenses and pay them such sums as he regards as reasonable. In this matter there is no check upon him except the availability of funds which has never proved an insoluble problem. In short, he is as nearly completely untrammelled as in any phase of his executive authority." */ (Emphasis added.)

Individual agents, appointed by the President, were the exclusive means by which covert action was conducted prior to World War II. During the war, the President created the Office of Strategic Services, and charged it with responsibility for secret subversive operations against the enemy, as well as general intelligence activities; the OSS thus became the first governmental agency to be assigned the task of planning and conducting covert action. The OSS exercised this task until it was disbanded in September 1945. Then, in January 1946, President Truman, by Executive Order, established the Central Intelligence Group. **/ Although the CIG was primarily a centralized intelligence organization, it was also assigned the function of conducting covert action.

*/38 Foreign Affairs 219 (1960).

**/ Executive Order 9690, January 26, 1946. 11 Fed. Reg. 1337, 1339 (February 5, 1946).

What these historical precedents show is that, beginning long before the CIA was established, Presidents exercised their independent power to direct executive agents and executive agencies to perform covert action in foreign countries. Consequently, when the CIA was established in 1947, and when, shortly thereafter, it was delegated the responsibility for covert action, there was no attempt by the President to assert or exercise any new or theretofore unrecognized executive authority; he was merely delegating to the CIA various executive functions which were previously assigned to ad hoc special agents and other executive agencies.

#1 { In sum, the decisions of the Supreme Court, the actions of Congress, and the constitutional precedents developed by historical example clearly establish that the President has broad, inherent powers with respect to foreign affairs, and that these powers include the authority to assign an executive agency, such as the CIA, the responsibility for planning and conducting covert action in support of this country's foreign policy objectives.

B. NATIONAL SECURITY ACT OF 1947

The National Security Act of 1947 provided for the establishment of the CIA. However, the idea for a central intelligence organization was actually conceived three years earlier. In 1944, Colonel (later Major General) William J. Donovan, head of the wartime Office of Strategic Services, prepared a plan for President Roosevelt which called for the establishment of a centralized intelligence service. Donovan's plan envisioned an agency similar to his own OSS, which would procure intelligence by overt and covert means and which would be responsible for "secret activities" such as "clandestine subversive operations."

The OSS itself, as indicated above, was disbanded at the close of World War II in September 1945. However, Donovan's plan, as developed and amended by the Joint Chiefs of Staff, reached fruition on January 22, 1946; on that date, President Truman, by Executive Order, established the Central Intelligence Group (CIG).*/ The CIA thus became the first peacetime central organization in American history devoted to intelligence matters. Heading the CIG was a Director of Central Intelligence, whose duties were to:

"(a) Accomplish the correlation and evaluation of intelligence relating to the national security, and the appropriate dissemination within the Government of the resulting strategic and national intelligence policy . . .

"(b) Plan for the coordination of such of the activities of the intelligence agencies of other departments as relate to the national security and recommend

*/ Executive Order 9690, supra.

to the National Intelligence Authority [composed of the Secretaries of State, War and Navy, and a personal representative of the President] the establishment of such overall policies and objectives as will assure the most effective accomplishment of the national intelligence mission.

"(c) Perform, for the benefit of said intelligence agencies, such services of common concern as the National Intelligence Authority determines can be more efficiently accomplished centrally.

"(d) Perform such other functions and duties related to intelligence affecting the national security as the President and the National Intelligence Authority may from time to time direct."* (Emphasis added.)

The National Security Act of 1947 called for the CIA to have the same powers and responsibilities as were accorded the CIG under the 1946 Presidential Directive. Accordingly, when the House Committee on Expenditures in the Executive Departments held hearings on the 1947 Act, it paid special attention to the broad authority delegated to the CIG by subsection (d).*/ During these hearings, for example, Representative Clarence Brown questioned Lt. Gen. Hoyt S. Vandenberg, Director of Central Intelligence, about the authority which subparagraph (d) conveyed:

*/ Id. at 1337.

*/Hearings before the House Committee on Expenditures in the Executive Departments, June 27, 1947, Addendum No. 1 to Volume 1 (hereafter "Hearings").

REP. BROWN: "[T] his other section (i.e., subparagraph (d))
Approved For Release 2005/02/17 : CIA-RDP78M02660R000800100008-2 that you
decided was either advantageous or beneficial, in your
mind?"

LT. GEN. VANDENBERG: "Yes, sir."

REP. BROWN: "In other words, if you decided you wanted
to go into direct activities of any nature, almost,
why, that could be done?"

LT. GEN. VANDENBERG: "Within the foreign intelligence
field, if it was agreed upon by all of the three
agencies concerned [i.e., State, War and Navy, the
three agencies represented on the NIA]."*

A subsequent witness, Peter Visser, the draftsman of the
Presidential Directive establishing the CIG, recommended to the committee
that it pass the Act without authority for the CIA to perform any
"other functions related to intelligence affecting the national
security." He called this provision a "loophole" because it enabled the
President to direct the CIG to perform almost any operation.** Various
members of the committee discussed the provision with the witness***

It is significant, then that when the bill was reported out, and when
it was passed, it authorized the CIA to:

"perform such other functions and duties related to intelligence
affecting the national security as the National Security Council
(which replaced the NIA) may from time to time direct." (Section
102(d)(5)).

In other words, the committee, with full knowledge of the broad
implications of subparagraph (d) of the 1946 Presidential Directive,
conferred the identical powers and responsibilities on the CIA. This
legislative history indicates that the committee, by including Section
102(d)(5) in the final bill, intended that the CIA have the authority,
subject to directions from the National Security Council, to conduct
a broad range of direct operational assignments.

*Hearings, *supra*, p. 11.

**/Id. p. 88

***/Id. pp. 78-103.

C. CONGRESSIONAL RATIFICATION OF CIA AUTHORITY TO PLAN AND
CONDUCT COVERT ACTION

Throughout the 28-year history of the CIA, the Agency has reported its covert action programs to the appropriate members of its oversight subcommittees in both the House and Senate. Moreover, Congress, through the mechanisms it has established for funding the Agency, has continually appropriated funds to the Agency for these activities. *

The Justice Department, in its 1962 memorandum, discussed supra, provided the following description of the history of CIA reporting of its covert action programs to Congress, and Congressional appropriation of funds for such programs:

"Congress has continued over the years since 1947 to appropriate funds for the conduct of such covert activities. We understand that the existence of such covert activities has been reported on a number of occasions to the leadership of both houses, and to members of the subcommittees of the Armed Services and Appropriations Committees of both houses. It can be said that Congress as a whole knows that money is appropriated to CIA and knows generally that a portion of it goes for clandestine activities, although knowledge of specific activities is restricted to the group specified above and occasional other members of Congress briefed for specific purposes. In effect, therefore, CIA has for many years had general funds approval from the Congress to carry on covert cold-war activities..."*/

*/The history of CIA reporting of covert action programs and Congressional appropriation dates back to 1948. In April 1948, when the House Armed Services Committee was considering the CIA Act (ultimately adopted in 1949), Director of Central Intelligence Hillenkoetter told the committee that the Act was needed to enable the Agency to, inter alia, do research on and purchase explosives, utilize and supply underground resistance movements in overrun countries, purchase printing presses for the use of agents, and do research for psychological warfare purposes. Passage of the Act clearly reflects Congress' determination that the Agency be able to conduct activities, such as covert action, similar to those conducted by the OSS; for example, the permanent appropriations language in the CIA Act was modelled after the appropriations language for the OSS because of its flexibility and its provision for confidentiality of appropriations for secret operations.

**/DOJ Memorandum, pp.12-13.

The law is clear that, under these circumstances, Congress has effectively ratified the authority of the CIA to plan and conduct covert action under the direction of the President and the National Security Council. The leading case on this point is Brooks v. Dewar, 313 U.S. 354 (1941). In that case, a 1934 Act of Congress authorized the establishment of livestock grazing districts on certain federally-owned land, and charged the Secretary of the Interior with responsibility for administering and maintaining these districts; although the powers conferred on the Secretary were broad, the Act did not explicitly authorize him to require persons wishing to utilize the land to purchase licenses. Nevertheless, the Secretary promulgated regulations which imposed a license requirement, and sought to bar respondents who had not purchased a license, from utilizing a particular grazing district.

In the Supreme Court, the Secretary argued that, even though the 1934 Act did not explicitly authorize him to require users of federal grazing lands to purchase licenses, his exercise of this authority was lawful because Congress, by its own actions, had ratified it. The Secretary argued that, on several occasions, he fully informed the appropriate Congressional committees that he had imposed a license requirement and that, in light of this information, Congress continually appropriated funds for the operation of the grazing district program; this, he contended, amounted to a ratification of his authority to institute the license requirement.

The Supreme Court agreed that Congress, by continuing to appropriate funds with knowledge of the Secretary's actions, ratified those actions. The Court explained:

"The information in the possession of Congress was plentiful and from various sources. It knew from the annual reports of the Secretary of the Interior that a system of temporary licensing was in force. The same information was furnished the Appropriations Committee at its hearings. Not only was it disclosed by the annual report of the Department that no permits were issued in 1936, 1937 and 1938, and that permits were issued in only one district in 1939, but it was also disclosed in the hearings that uniform fees were being charged and collected for the issue of temporary licenses. And members from the floor informed the Congress that the temporary licensing system was in force and that as much as \$1,000,000 had been or would be collected in fees for such licenses. The repeated appropriations of the proceeds of the fees thus covered and to be covered into the Treasury, not only confirms the departmental construction of the statute, but constitutes a ratification of the action of the Secretary as the agent of Congress in the administration of the act." (Footnotes omitted.)
313 U.S. at 360-361.

The Brooks case requires the conclusion that Congress has ratified the CIA's authority to plan and conduct covert action. Relying on Brooks, the Justice Department reached precisely that conclusion:

"It is well-established that appropriations for administrative action of which Congress has been informed amount to a ratification of or acquiescence in such action. Brooks v. Dewar, 313 U.S. 354, 361; Fleming v. Mohawk Co., 331 U.S. 111, 116; see also Ivanhoe Irrig Dist. v. McCracken, 357 U.S. 275, 293-294; Power Reactor Co. v. Electricians, 367 U.S. 396, 409. Since the circumstances effectively prevent the Congress from making an express and detailed appropriation for the activities of the CIA, the general knowledge of the Congress, and specific knowledge of responsible committee members, outlined above, are sufficient to render this principle applicable."*/ (Footnote omitted).

Recent legislative developments provide further support for the Justice Department's conclusion that Congress has ratified the CIA's authority to plan and conduct covert action. In September and October 1974, attempts were made in both the House and Senate to limit the Agency's power to conduct covert action; these attempts were soundly defeated. In the House, the attempt took the form of a proposal by Representative Holtzman for a joint resolution amending the Supplemental Defense Appropriations Act as follows:

"After September 30, 1974, none of the funds appropriated under this joint resolution may be expended by the Central Intelligence Agency for the purpose of undermining or destabilizing the government of any foreign country."

*/ DOJ Memorandum, p. 13.

The proposal was defeated by the House on September 30, 1974, by a vote of 291-108.

In the Senate, Senator Abourezk attempted to amend the Foreign Assistance Act of 1961 so that it would state:

"(a) No funds made available under this or any other law may be used by any agency of the United States Government to carry out any activity within any foreign country which violates, or is intended to encourage the violation of, the laws of the United States or of such country.

"(b) The provisions of this section shall not be construed to prohibit the use of such funds to carry out any activity necessary to the security of the United States which is intended solely to gather intelligence information...."

This amendment was defeated by the Senate on October 2, 1974, by a vote of 68-17.

However, the following amendment to the Foreign Assistance Act of 1961 ²was enacted:

"Sec. 663. Limitation on Intelligence Activities.

"(a) No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives.

This provision prevents the CIA from engaging in any covert action unless and until the President makes a finding that such action is important to the national security. It also requires the President to report on the description and scope of the action "in a timely fashion" to the appropriate Congressional committees. The provision clearly implies that the CIA is authorized to plan and conduct covert action. The Association of the Bar of the City of New York has concluded, in fact, that the provision serves as a "clear Congressional authorization for the CIA to conduct covert activities."*/

In sum, the history of Congressional action since 1947 makes it clear that Congress has both acknowledged and ratified the authority of the CIA to plan and conduct covert action.

III. CONCLUSIONS

There is ample legal authority for the Central Intelligence Agency to plan and conduct covert action in foreign countries. First, it is within the inherent constitutional authority of the President with respect to foreign affairs to delegate to an executive agency, such as the CIA, the responsibility for planning and conducting such activities; in fact, by means of various National Security Council Directives, and National Security Decision Memorandum 40 (issued by the President himself), he has lawfully delegated this responsibility to the CIA.

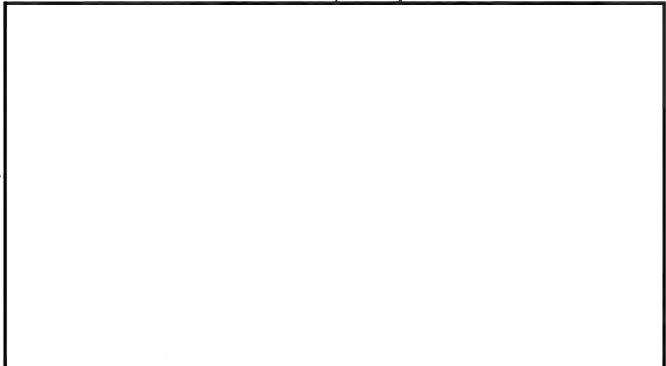
*/The Central Intelligence Agency: Oversight and Accountability, by the Committee on Civil Rights and the Committee on International Human Relations of the Association of the Bar of the City of New York (1975), p. 15.

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Second, the National Security Act of 1947 authorizes the CIA, at the direction of the National Security Council, to engage in covert action in foreign countries. The legislative history of this statute, particularly in the House of Representatives, gives support to this conclusion. Third, the 28-year history of Congressional action with respect to the CIA clearly establishes that Congress has ratified the authority of the Agency to plan and conduct covert action.

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I. Constitutional Powers of the President.

"As a nation with all the attributes of sovereignty, the United States is vested with all the powers of government necessary to maintain an effective control of international relations." Burnet v. Brooks, 288 U.S. 378, 396. These powers do not "depend upon the affirmative grants of the Constitution," but are "necessary concomitants of nationality." United States v. Curtiss-Wright Corp., 299 U.S. 304, 318.

"In the preservation of the safety and integrity of the United States and the protection of its responsibilities and obligations as a sovereignty" the constitutional powers of the President are broad. 30 O.A.G. 291, 292. "The very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations . . . does not require as a basis for its exercise an act of Congress", although, like all governmental powers, it must be exercised in subordination to any applicable provisions of the Constitution. United States v. Curtiss-Wright Corp., supra, at p. 320. His duty to take care that the laws be faithfully executed extends not merely to express acts of Congress, but to the enforcement of "the rights, duties, and obligations growing out of the Constitution itself, our international relations, and all of the protection implied by the nature of the government under the Constitution." In Re Neagle, 135 U.S. 1, 64. (1890).

Examples of the exercise of these broad powers are numerous and varied. Their scope may be illustrated by the following: The President may take such action as may, in his judgment, be appropriate, including the use of force, to protect American citizens and property abroad. Duand v. Holling, Fed. Cl. No. 4166 (C.C.S.D.N.Y. (1860)); In Re Neagle, supra,

135 U.S. at 64; Hamilton v. M'Claghry, 136 Fed. 445, 449-50 (D. Kansas, 1905); II Hackworth, Digest of International Law, 327-334; VI Id., 464-5. Notwithstanding the exclusive power of Congress to declare war, the President may repel armed attack and "meet force with force." Prize Cases, 2 Black 635, 668 (1862). He may impose restrictions on the operation of domestic radio stations which he deems necessary to prevent unneutral acts which may endanger our relations with foreign countries. 30 O.A.G. 291.

Congress' grants of powers to executive agencies in areas relating to the conduct of foreign relations and preservation of the national security from external threats are generally couched in terms which neither limit the powers of the President nor restrict his discretion in the choice of the agency through which he will exercise these powers. Thus, in establishing a Department of State in 1799, Congress directed that the Secretary should perform duties relating to "such . . . matters respecting foreign affairs as the President of the United States shall assign to the Department", and should "conduct the business of the department in such manner as the President shall direct." 1 Stat. 28; R.S. § 202, 5 U.S.C. 156.

More recently, in establishing the National Security Council, Congress gave it the function of advising the President "with respect to the integration of domestic, foreign, and military policies relating to the national security." 50 U.S.C. 402 (a).

From the beginning of our history as a nation, it has been recognized and accepted that the conduct of foreign affairs on occasion requires the use of covert activities, which might be of a quasi-military nature. See, e.g., the act of July 1, 1790, 1 Stat. 128, and Mar 1, 1810, sec. 3, 2 Stat. 609. In a message to the House of Representatives declining to furnish an account of payments made for contingent expenses of foreign intercourse, President Polk reviewed that practice and stated:

"The experience of every nation on earth has demonstrated that emergencies may arise in which it becomes absolutely necessary for the public safety or the public good to make expenditures the very object of which would be defeated by publicity." 1/

1/ President Polk continued:

"Some governments have very large amounts at their disposal, and have made vastly greater expenditures than the small amounts which have from time to time been accounted for on President's certificates. In no nation is the application of such sums ever made

Footnote 1/ continued: "

public. In time of war or impending danger the situation of the country may make it necessary to employ individuals for the purpose of obtaining information or rendering other important services who could never be prevailed upon to act if they entertained the least apprehension that their names or their agency would in any contingency be divulged. So it may often become necessary to incur an expenditure for an object highly useful to the country; for example, the conclusion of a treaty with a barbarian power whose customs require on such occasions the use of presents. But this object might be altogether defeated by the intrigues of other powers if our purposes were to be made known by the exhibition of the original papers and vouchers to the accounting officers of the Treasury. It would be easy to specify other cases other cases (sic) which may occur in the history of a great nation, in its intercourse with other nations, wherein it might become absolutely necessary to incur expenditures for objects which could never be accomplished if it were suspected in advance that the items of expenditure and the agencies employed would be made public." 4 Richardson, Messages and Papers of Presidents, 431, 435 (April 20, 1846)

Compare also Stuart, American Diplomatic and Consular Practice (1952) p. 196, (commenting on prevailing diplomatic practice of all countries), "actual cases of interference in the internal affairs of states to which the envoys are accredited are very numerous."

An early example of such a secret operation is afforded by the Lewis and Clark expedition of 1803. That expedition was authorized prior to the Louisiana Purchase by a statute providing

"That the sum of two thousand five hundred dollars be, and the same is hereby appropriated for the purpose of extending the external commerce of the United States (2 Stat. 206)."

Congress used this cryptic language at the request of President Jefferson because, in the words of a present-day judge, the "expedition, military in character, would enter into lands owned by a foreign nation with which the United States was at peace and . . . the utmost secrecy had to be observed." ^{2/} First Trust Co. of St. Paul v. Minnesota Historical Soc., 146 F. Supp. 652, 656 (D. C. Minn. (1956)), aff'd sub. nom. United States v. First Trust Co. of St. Paul, 251 F. 2d 686 (C.A. 8).

^{2/} In his message to the Congress, President Jefferson stated: "* * * The appropriation of \$2,500 ' for the purpose of extending the external commerce of the United States,' while understood and considered by the Executive as giving the legislative sanction, would cover the undertaking from notice and prevent the obstructions which interested individuals might otherwise previously prepare in its way." (1 Richardson, Message and Papers of the Presidents, 352 at 354.)

Under modern conditions, the President can properly regard the conduct of covert activities as necessary to the effective and successful conduct of foreign relations and the protection of the national security. When the United States is attacked from without or within, the President may "meet force with force," Prize Cases, supra. In attempting to strengthen the free nations of the world and contain our adversaries, and thereby to advance the national security of the United States, the President should be deemed to have authority to meet covert activities with covert activities if he deems such action necessary and consistent with our national objectives. As Charles Evans Hughes said in another context, "Self-preservation is the first law of national life and the constitution itself provides the necessary powers in order to defend and preserve the United States." War Powers Under the Constitution, 42 A. B. A. Rep. 232 (1917). Just as "the power to wage war is the power to wage war successfully," id. 238, so the power of the President to conduct foreign relations should be deemed to be the power to conduct foreign relations successfully, by any means necessary to combat the measures taken by the Communist bloc, including both open and covert measures.

The exclusive power of Congress to declare war has been held not to prevent use by the President of force short of war to protect American citizens and property abroad. A fortiori, it does not prevent his use of force short of war for other purposes which he deems necessary to our national survival. In either case the magnitude and possible grave international consequences of a particular action may be such as to render it desirable for the President to consult with, or obtain the approval or ratification of, the Congress if circumstances permit such action. But the necessity for obtaining such approval does not depend on whether the action is overt or covert.

C

Amendments to the Foreign Assistance Act to
Prohibit Covert Action Programs Involving
the Political, Electoral Process and Assassination

I. BACKGROUND

a. Presidential Statement. On 16 September 1974, the President stated that "our Government, like other governments, does take certain actions in the intelligence field to help implement foreign policy and protect national security. I am informed reliably that Communist nations spend vastly more money than we do for the same purposes." The President went on to describe efforts made by foreign governments to destroy democratically based opposition political parties and concluded that there are times when it certainly is in our best interest to preserve such opposition political parties.

b. Congressional Action

1. House. On 27 September 1974, the House, by a vote of 291 to 108, rejected an amendment which would have banned the use of any money appropriated for use by CIA to "destabilize or undermine any government."

2. Senate. On 2 October 1974, the Senate rejected by a vote of 68 to 17, an amendment which would have prohibited funds for use by any U.S. agency to carry out any activities which would violate or encourage violation of laws of the country involved, except for intelligence collection.

3. Statute. Public Law 93-559, approved 30 December 1974 (Foreign Assistance Act of 1974) established a statutory limitation on intelligence activities (Section 32). Regarding operations in foreign countries, by or on behalf of the CIA, other than activities solely for obtaining necessary intelligence, the provision requires a report, in a timely fashion, of the description and scope of such operations to six committees of the Congress, including the House International Relations Committee. This provision gives the members of these committees (43 members of the Senate and House) a vehicle for presenting their views to the President concerning such operations.

c. Congressional Investigations

Both Houses of Congress have thoroughly reviewed the activities of the Central Intelligence Agency, including covert actions. There are 24 members from both Houses serving on these committees. Although their final recommendations are either in the process of formulation or being studied by appropriate committees in the Congress, there is no recommendation to abolish or restrict our nation's covert action capabilities, except for the subject of assassination which is clearly opposed both within the Executive Branch and the Congress.

d. Murphy Commission, which was established by Public Law 92-352 also studied this problem and in its June 1975 report stated:

"Covert Action: A Special Problem. To this point we have addressed only the intelligence activities of the intelligence community. [REDACTED]

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The Commission has considered whether covert action should any longer be authorized at all. It recognizes that there are many risks and dangers associated with covert action. Partly for these reasons the use of covert action in recent years has markedly declined.

But we must live in the world we find, not the world we might wish. Our adversaries deny themselves no forms of action which might advance their interests or undercut ours, as quite recent as well as past events demonstrate. In many parts of the world a prohibition on our use of covert action would put the U.S. and those who rely on it at a dangerous disadvantage..."

"...Moreover, as we have seen a diffusion of power among societies, so we are witnessing a diffusion of authority within societies. Once-accepted goals and values are increasingly questioned, the authority of established institutions is challenged, often with outside support, with the result of frequent changes in regimes throughout the world. We believe these trends are likely to continue at least for the near-term future..."

"...The World which U.S. foreign policy must address, and which the organization of the government must be designed to help it address, will be one of increasing complexity, interaction, difficulty and danger, but also one of crucial opportunities..."

II. Issues

Political Action

a. In the early days of the Cold War there was a consensus by national policy makers, both within the Congress and the Executive Branch, that it was essential to confront aggressive Communist subversive efforts in many areas of the world. Although these activities have tapered off tremendously situations in the world still exist where discrete support can assist our friends against our adversaries in their contest for control of a foreign nation's political direction. It would be imprudent for our nation not to be able to act in such situations and thus forestall greater difficulties in the future.

b. American policy today is different from when it was confronting worldwide Communist subversion in the 1950's or Communist insurgency in the 1960's. One reason covert action activity has been reduced is the fact that many of the Communist's efforts during those years were successful. Today in the Washington Post there is an article by Michael Ledeen and Claire Sterling concerning the situation in Italy. That article makes a very valid point that "If it is true, as the Communists claim, that they have become a democratic party, to whom should the credit go for this remarkable transformation? Should it not go in large part to the United States and to the forces of the Italian center and non-Communist left who for 30 years opposed a monolithic and Stalinist PCI? Is the "new face" of Communism in Western Europe not a tribute to the success of a policy that is today the object of scorn and -- unbelievably -- embarrassment in Washington?"

c. A sovereign nation must look ahead to changing circumstances and must be capable of facing new threats as they develop in the world. In 1924, the brand new battle ship "Washington" was sunk as a demonstration of our commitment to disarmament. It was in the same era that we disbanned intelligence in the Department of State because "gentlemen do not read each others mail," and we declined the international burdens of other league of nations. Some would read our post World War II history, with all of its costs, as constituting an improvement over these earlier policies by avoiding a World War III for 30 years. It was former Director of CIA Colby who pointed out that it would be a mistake to deprive our nation of some possible moderate covert action response to a foreign problem and leave us with nothing but a diplomatic protest and sending the Marines.

d. Assassinations.

There is no need to clutter the Foreign Assistance Act with legislation relating to covert action. As indicated, some eight committees of Congress, involving some 67 members have been continuously seized with this subject. An amendment in this area should not be casually adopted on the floor without the benefit of their findings. In the case of assassination, we already know that the President is committed to legislation which would make it a criminal penalty for the Government to engage in the assassination of a foreign leader. An Executive Order 11905 concerning "United States Foreign Intelligence Activities" which was issued on 18 February 1976, provides in Section 5, "Restrictions on Intelligence Activities," (g) "Prohibition of Assassination." No employee of the United States Government shall engage in, or conspire to engage in, political assassinations."

e. Control of Covert Actions. Executive Order 11905 also establishes new controls over covert action and other special operations. It establishes an "Operations Advisory Group" composed of the Assistant to the President for National Security Affairs, the Secretary of State, the Secretary of Defense, the Director of Central Intelligence, and the Chairman

of the Joint Chiefs of Staff. The Attorney General and the Director of the Office of Management and Budget are observers. That group is to consider and make recommendations to the President on all proposals for covert action, submit a periodic review of covert action to the National Security Council, of which the President is chairman, and meet formally to carry out its responsibility to make recommendations to the President.

f. We operate under a constitutional system which divides between the Executive and the Congress authority and responsibility in a number of areas, including the area of foreign affairs. It is through this structure that this nation formulates its foreign policy and Congress has a vital role in that formulation. However, the President does have a preeminent role in the implementation and conduct of foreign relations and the constitutional legitimacy of his action is not changed if the President carries out this role "covertly" rather than "overtly", either directly or through his designated representative.

D

Freedom at issue

March-April 1976

Number 35

Intelligence agencies in a free society

Are they really needed? What are the keys to continuing reform within a system of checks and balances?

Views by 4 who know intelligence operations intimately, and a philosopher who ponders the relevance of morality.

Intelligence, Freedom and the Preservation of Both

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Intelligence, Morality and Foreign Policy

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A nation's safety while searching for its soul

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How Margaret Chase Smith Would Monitor the CIA,

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**Should the U.S. Use Covert Action
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representation would be an elder statesman of the stature of the late Bernard Baruch or Eleanor Roosevelt.

The first function I would assign to such a commission would be to write the charter for the CIA defining not only its proper areas of activities but, as well, the proper relationship between it and the President, the Congress and other agencies of the government. The commission's second function would be to police the CIA to insure compliance with its charter—to police constantly and not sporadically.

Third, I would require its four government members to accept the grave responsibility and accountability for the actions of those branches of the government they represent.

If these five designated persons could not be trusted as guardians against misconduct by the CIA, against presidential personal and partisan exploitation of the CIA, and against the congressional disease of leakage and partisan exploitation of the CIA in sensational hearings and exposes, then who could?

Should the U.S. Use Covert Action in the Conduct of Foreign Policy?



Mr. Jacobs

Why did we create the CIA in the first place? Is secrecy sinister? Can covert actions make up for mistaken foreign policy? Would our suspension of covert acts be tantamount to unilateral disarmament? Some answers by a senior CIA officer.

by Arthur Lester Jacobs

The question posed for governmental and public consideration is whether the United States government should use covert action in the conduct of its foreign policy.

The ambiance of our times is hardly conducive to objective and sober consideration of this question. Emotionalism and sensationalism are pandemic. The news media have been filled with lurid portrayals of poisoned dart guns, penetration, infiltration, assassination, lacking only a sex angle which may yet come. The use of the pejorative "Department of Dirty Tricks" neither provides facts nor allows for reasoned discussion.

One would think that any discussion of this question would have been preceded by the consideration of the security threats to the United States and whether and what types of action are desirable to meet those threats. It would be pertinent, first, to examine the efficacy of various methods of implementing our foreign policy.

But the opponents of covert action take the draconian position that we should totally abandon our existing capability for a variety of moral, legal and political reasons and dismantle the organization for implementing it. Others condemn such action in principle but grudgingly concede that certain circumstances might justify it, while demanding interdictions in some types of action and stringent

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requirements for authorization and control. The more extreme supporters of covert action oppose any change from present authorization.

I do not write as an apologist or defender of any past covert action, be it real, imagined or distorted. At the same time, I would not, even if permitted, inventory past achievements of covert action, except to voice my conviction that they have served the nation well. I do not represent the CIA or any other agency of government, or any elected or appointed officer. I write as a private citizen on the use of covert action as a legitimate means of protecting national security and implementing our foreign policy, the needs for reaffirming the validity of that means, and to point out the dangers of abandoning it.

I share the concern about the possibility of our government engaging in any unauthorized intervention abroad, and particularly in a war. And I am just as concerned with my civil liberties and those of others because I know how they have been threatened before. As a retired intelligence officer, I have no more or less qualification to speak to the issue before us, which is essentially political. What I do have is a body of experience in covert action that may enable me to separate fact from fiction as to its use, its limitations and its potential for misuse. And, if I can dissipate some common misconceptions and allay some misgivings and doubts, I will have made a contribution.

Definition of covert action

There is considerable confusion about the terminology of the various types of secret operations and their substance. Such terms as covert operations, clandestine operations, covert intelligence, secret operations, secret intelligence, covert action and others are being used interchangeably.

In defining covert action, we can begin by excluding what may be called, **Approved For Release 2005/02/17 : CIA-RDP78M02660R000800100008-2** intelligence gathering may be done openly or secretly, the collection of intelligence which is secret in nature or is obtained by secret methods is called *secret intelligence operations*. Conversely, *counter-intelligence* is the defense against the collection of and use of our secrets by governments and forces hostile to ours. The distinguishing characteristic of secret intelligence and counter intelligence operations from covert action is that the end product is information.

In positive terms, *covert action* may be defined as acts intended to influence events or attitudes in which governmental interest is concealed through secrecy or a visible facade called cover. The end product in any covert action operation is an act or a series of acts, not information.

Some illustrations of covert action operations may clarify this further. They may range from a one-time publication of a news report to the support of a publication over a longer period of time. They can include sabotage and counter sabotage. They embrace psychological warfare against a pervasive ideology maintained over a long period of time, or efforts directed to influencing the outcome of a single political event.

Covert action may include the support of friendly apolitical individuals or organizations as well as political forces. It does not necessarily involve any monetary inducements. It usually involves a confidential contact and access to an individual in a position of influence or political or apolitical power, based on the individual's confidence and respect for the judgment and advice of the covert action officer.

Covert action is not necessarily concealed from the government of the country where the action is being conducted, when it is in mutual interest that the operation be conducted free from publicity in both countries, as it was in Laos.

Covert action can include economic action to acquire materials vital to our interests and to deny them to those governments and forces which could use them against us, where the acknowledgement of governmental interest could prejudice the success of either action.

Covert action can include acts which are innocent of themselves when governmental interest is thought to be more effective without governmental attribution or a label on them. Radio Liberty and Radio Free Europe broadcast for years to the communist world when governmental funds and guidelines were concealed because to acknowledge them would detract from their effectiveness. Both radios now broadcast using overt U.S. funding.

Covert action can be a force for peace and against violence by disrupting or blocking unconstitutional and violent acts which can be a disservice to our interests.

Covert action can be used positively to engender and support organizations, individuals, attitudes and events in American interests and defensively to neutralize and counter forces against our interests.

In sum, covert action has as great flexibility and variety in form and substance as can be devised to meet a given task or an assigned requirement.

Most important, in examining past and present critical reviews it has been and is postulated that no covert action should be undertaken without the authority of the policy

making elements of our government. (So far as I am aware, and presently without such authority; and during the time of my association with such operations, I knew of no covert action without it.) It is further postulated that the covert action under discussion is that directed solely against foreign forces inimical to American interests. Third, it should be agreed that the covert action agency should be divorced to the maximum extent possible from ultimate policy making.

Whether covert action operations could be better managed by the agency responsible, should be controlled more closely by the policy-making levels of government, should be limited in scope and type, should have closer Congressional oversight, could be conducted more economically, should be divorced from secret intelligence and counter-intelligence operations—all these are important questions and there is a wide range of answers to each of them. However, these answers are beyond the scope of this review since we are fundamentally discussing the validity of a function of government in the long-term interest of the United States and Americans of future generations. For the purpose of this discussion, I accept the disability that the defeats of covert action operations, real or imagined, are orphans laid on the doorstep of the Central Intelligence Agency (CIA), and its achievements and successes must remain unknown. If the cynicism and distrust generated by past misuse and abuse of the governmental processes is to color our judgment for the future, all of us can suffer.

The question we are examining is not new. The Rockefeller Commission report lists ten different official external examinations of the functioning of the intelligence community going back to 1949, some covering the specific question before us. It has been debated extensively in private and public forums and the news media.

In 1974, the Senate considered this question before us and rejected Senator Abourezk's bill, 68 to 17, to bar all covert action and the House rejected Congressperson Holtzman's bill, 291 to 108, to bar specific political action against foreign governments. But the Foreign Assistance Act of 1974 in effect required the President to find that funds expended in covert operations in foreign countries are important to the national security and to report a description of such operations to the Senate and House Committee on Foreign Affairs and the other appropriate Congressional committees. The current committee hearings of both houses of the Congress are still in process.

The most recent in-depth study of the question is that of the so-called Murphy Commission, authorized by statute in 1972, in which the question of covert action was discussed within the context of the title of its report, "The Organization of the Government for the Conduct of Foreign Policy." The twelve-person committee consisted of two senators, two representatives, two from the executive branch, and six from private life. The committee chairman was former Ambassador Robert D. Murphy and a large staff was headed by two former senior State Department officers. After two years of study and extensive hearings, a report was issued on June 27, 1975. One salient conclusion was that

Covert action should not be abandoned but should be employed only where such action is clearly essential to vital U.S. purposes, and then only after careful high level review.¹

Leaving aside the interpretation of what is "clearly essential to vital U.S. purposes," I subscribe to that

¹ F-1's and other notes are on page 19

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conclusion. The Murphy Commission report in toto and the section dealing with covert action merit particular consideration because they consider covert action as a function of foreign policy.

It is in the interest of all of us that the question before us be resolved by our government quickly after exhaustive inquiry and thoughtful study. Prolonged delay in this process can only serve to exacerbate the damage that has been done to the covert action capability directly and to the national interests indirectly, some of which damage may be irreparable and some of which cannot be corrected for a long time.

History of covert action

There is almost a tacit assumption that covert action is of recent spontaneous origin. A resumé of the history of such operations may dispel this misconception and indicate their potential usefulness in current and future events.

Covert action is as old as the moment when man first believed it desirable to conceal his participation in events. Covert action by governments is as old as governments for the same reason. It was not invented by the U.S. Government or CIA.² As early as the fourth century B.C., the Chinese Sun Tzu, author of the classic "The Art of War," wrote basic doctrine on covert action by governments.³

It is a well developed technique in current use by nations and forces hostile to us. It is also a method used by democracies allied with or friendly to our own, to protect their own security and to further foreign policy. It is a method employed by Third World governments.

Early in American history, the Continental Congress engaged in covert action in Bermuda to enlist the support of Bermudan citizens in obtaining gun powder and other war materiel for our own revolution.⁴ In the same period we engaged in covert paramilitary action in providing arms and otherwise supporting the privateers who were attacking British shipping. In 1847, President Polk instructed his consul in Monterey in covert political action to insure that if California seceded from Mexico it would join the United States and not England.⁵

In World War I, the German government engaged in covert attempts to incite the Mexican government against ours. When this was discovered by the British government through secret intelligence in deciphering a telegram to the German Ambassador in Mexico, the British government used this same information brilliantly in a psychological warfare campaign designed to involve us in the war.

Before World War II, both communist and fascist governments engaged in covert paramilitary action in the Spanish Civil War. Before and during World War II, the Nazi government engaged in an effective covert action against the Czech and Austrian governments and waged an effective campaign of psychological warfare, political subversion and black propaganda to demoralize the allied continental powers.

The American government did not establish a permanent organization for secret foreign intelligence, counter-intelligence and covert action until after World War II. The

making it evident that there was a need to establish a permanent civilian intelligence organization, culminated in the organization of the CIA in 1947.

But it was the events that followed World War II that impelled the organization of a covert action arm of our government. When first organized in 1947, CIA had only a very limited covert action charter, which was insufficient to meet the requirements of the historical situation in which we found ourselves. While Russia was fighting for her life on the western front during the war, the satellite communist parties in Asia and elsewhere continued a program of clandestine action. But following the victory of World War II the USSR renewed its goal of communist expansion into Europe. It expanded its political borders by the absorption of Lithuania, Latvia and Estonia and expanded its political hegemony over Eastern Europe into Poland (through a gross violation of the Lublin agreement), Bulgaria, Rumania, Hungary and East Germany. This was accomplished with relative ease in those defeated countries with their war-ravaged economies. The continuing Soviet military and civilian presence and, of course, the local communist parties insured de facto control. Any attempt at political independence or democratic government in those countries was ruthlessly suppressed. The Soviets tried and failed to establish satellite states in Yugoslavia, Greece and Turkey where they had no military presence, through covert action backing dissident and guerrilla movements. The Soviets tried to expand in the Middle East through setting up a puppet Republic in Azerbaijan. Perhaps the most sickening example of expansion of the Soviets was their ruthless subversion of democratic government in Czechoslovakia by a combination of political pressure and clandestine action culminating in the so-called suicide of Jan Masaryk, and the absorption of that country within the Communist bloc.

The Soviet desire for such controlled buffer states is understandable but not excusable given their methods. The real threat to Western interests and the free world was signalled by the organization of the Cominform in 1947, and a large scale covert action campaign to take over Western Europe, not only for ideological and political authority over those countries but also for their natural resources and industrial capability. Soviet efforts were massive at every level: political, through their satellite parties; military threats and overt political pressure backed by a wide scale covert action program through subversion; and in labor, youth, and student organizations through a number of communist international front organizations, using local communist parties and Soviet clandestine agents. Western Europe was weak and vulnerable to these assaults. The Allies' military presence had been drastically reduced; European economies had been wrecked by the war; and vast rebuilding programs would have to be completed before normal agricultural and industrial life could be restored. The democratic political parties had been liquidated during the occupation, except for those returned from exile. When their leaders returned they found their parties fragmented, and without organization and resources. France and Italy particularly teetered on the brink of communist takeover. The communist efforts were not limited to Europe. Communist clandestine efforts began in strength in the Middle East and the Far East, notably in Malaysia, the Philippines and China.

The first outright Soviet challenge came in the Berlin blockade in 1948. Approved For Release 2005/02/17 : CIA-RDP78M02660R000800100008-2

event or period as crystallizing American popular and political opinion it is my belief that this was rightly viewed as a threat not only to Western Europe, but to the free world and the United States. We were the only economically healthy nation among the Western allies, and if we were going to take a stand, this is where it had better begin. We had not expended our men and resources to defeat the fascist plan to conquer the free world only to allow that world to be taken over by the communists. The American response was marked by a dogged determination not to be forced out of Berlin as evinced by a remarkable achievement, the Berlin air lift and, perhaps most important, by Marshall Plan assistance to Western Europe.

It was felt that these overt efforts were not enough to meet Soviet clandestine actions all over Europe. In 1948, on the initiative of the policy making agencies of government, rather than of CIA, a mechanism was created within CIA to meet the global clandestine threat and supplement the overt action of our government. The Soviets were already active in the field through their own covert action resources to negate American diplomatic and economic aid. Communist controlled labor unions tried to block the unloading of Marshall Plan supplies at Marseilles.

The CIA was late in the field and, in the vernacular, had to play catch-up ball. American covert action officers had to be trained and deployed in the field. Time was needed to develop agent resources and begin a program of covert action to meet and turn back the Soviet effort. Democratic political structures had to be revived and strengthened and psychological warfare programs begun to revive the democratic spirit in Western Europe.

The covert action component of CIA, already strained, was also asked overnight to counter the communist clandestine action along the perimeter of South Asia, and in North Asia after the outbreak of the Korean War.

Through a combination of diplomatic action, economic assistance and covert action, backed by good intelligence, the communists' expansion was arrested. It is conservative to say that American covert action made a substantial contribution. Given the age of the covert action component, the urgency of the requirements levied on it, and its limited experience, it had made relatively few mistakes and had done well.

Communist expansion in the Northern Hemisphere through overt and covert means having been arrested, the communist powers turned to Africa and Latin America. The unsuccessful Cuban effort for revolution in Bolivia in 1967 through Che Guevara is a conspicuous example in South America. The Soviet/Cuban paramilitary effort to communize southern Africa is evident in Angola.

Covert action in foreign policy

Governmental action between nation-states has traditionally been conducted by the heads of states, directly or through ambassadors, or through war or threat of war. The range of the peaceful relationship between states has broadened in recent years to include economic, technical, cultural, scientific and peaceful military contacts, but these still are subsidiary functions of the foreign policy of the states involved. In the furtherance of national interests with another state or group of states or the protection of the

Covert action is no better or worse than the foreign policy on which it is predicated.

security of the state, the choice remains essentially between the diplomatic and the military.

War or the threat of war is inherently the undesirable alternative. It not only has the potential for enlargement to other states beyond those initially involved, but today it has the almost unthinkable potential for increase from the level of conventional weapons to the nuclear. History has taught us that even a military victory may be Pyrrhic because of the economic and social disruption. Recent history has also shown that conventional military force has a limited capability against guerrilla warfare or terrorist action.

Similarly, peaceful diplomatic action even by a major political power such as our government has distinct limitations. Even the most forceful diplomatic representations can be unproductive and even counter-productive. This has also been true of the proffer of economic, technical or military support or the threat of their withdrawal. Further, where there is no direct or indirect communication channel between our government and the foreign state concerned, the use of diplomacy may be difficult if not impossible.

The choice between force or the threat of force and the diplomatic channel are almost by definition antithetical alternatives, both of which publicly and openly involve the state. Covert action is not necessarily a complete alternative to either force or diplomacy, but it may be a complement or supplement to both. It may provide a flexible optional course of action with a wide range of mutations in expression which cannot be fully or completely satisfied by either course of overt action. It is equally fundamental that covert action is not necessarily a weapon of last resort. There may be international situations that do not lend themselves to any course of affirmative action, and the government concerned must await developments to evolve naturally to the point where no action is needed or desirable, or deteriorate to the point where affirmative action becomes a matter of national necessity.

In any case, the use of covert action is no better or worse than the foreign policy on which it is predicated. Covert action cannot make permanent positive gains or permanently neutralize hostile forces unless the foreign policy involved is enunciated and carried out to back up the covert action which is authorized.

But where the foreign policy is firm and backed by governmental action, covert action has a number of favorable attributes. The techniques employed are not limited by the methodology and conventionality of overt action. Covert action can be limited in size and duration to the requirements of particular situations and are not so susceptible to the application of Parkinson's Law.

By the same token, and possibly more important, the covert approach does not involve a public commitment of the government and its prestige to a position and a course of action from which it may be difficult to withdraw or reduce without damage. The scope and pace of covert action may be enlarged, reduced or terminated as the action develops.

Covert action is usually more economical in men, money, and materiel than overt action. Costs of covert action are far less expensive than warfare with conventional weapons, and even large-scale paramilitary undertakings are cheaper than conventional or unconventional war. Covert non-violent action is not likely to be more costly than the overt diplomatic channel.

There have been instances, and there are likely to be again, where a government, organization or individual who might be the recipient of overt U.S. support would find this unacceptable and unusable because the beneficiaries' interest would be prejudiced domestically or in its foreign relationships by the identifiable U.S. government connection. The use of the same benefits through covert channels relieves the beneficiary of this disability and avoids the visible image of U.S. government intervention. Thus there may be bilateral agreement of the need to conceal the U.S. government's interest—in the mutual interest of both.

The inherent limitations in the use of covert action in effecting a nation's foreign policy have been stated. We would do well to consider its operational limitations, as well as the objections to the use of covert operations as a legitimate form of governmental action.

At the outset, it must be recognized by the policy makers of government that there can be no guarantee that any covert action which they authorize can be accomplished as planned; even if it is so accomplished that it will have the desired effect; and even if the action is accomplished as planned and has the desired effect, that the cover will stand up and the governmental interest remain concealed. Even the most skilled and experienced covert action operators under ideal conditions can offer no such assurances. The essential resources are human beings working under conditions of secrecy or within the limitations of cover, and performance cannot be predicted mathematically. The results are intangible and the effect desired is at best a judgment, subject to human fallibility. Also, there are the hostile forces who will, if aware of the operation and have the capability, do their best to frustrate the action. But these characteristics are equally true of overt action, whether they be military or diplomatic. It would be a brave diplomat who would predict the outcome of the expression and representation of a governmental policy. And it is characteristic of most military commanders to demand an overabundance of men, money and materiel to support a military action in order to reduce the inherent risk. There can be no assurance that any overt action or covert action in our foreign policy will be executed successfully. These are risks that must be calculated and then assumed in undertaking such an action, or rejected because it is felt the chances and value of the objective are outweighed by the risks.

Perhaps the most universal objection to the use of any covert action is that it is immoral and beneath the dignity of a nation-state. Implicit within this belief is the Wilsonian concept of "Open covenants openly arrived at." However, there are friendly, neutral and hostile nations who have used and do use covert channels even in diplomatic action, and it would be inappropriate for our own nation to moralize and instruct other nations on how they should conduct their foreign relationships, even with our own government. The renewal of a working relationship with China was accomplished through a secret channel, and it is unlikely that

Secrecy is not sinister of itself nor is it incompatible with democratic government.

China would have consented to begin the negotiations openly or that it could have been otherwise accomplished.

As has been pointed out, since time immemorial nations have used covert action to further their interests, and the practice prevails today. This is not to say that other nations believe that the ends justify the means. This is to say that the means are not considered so pernicious or so meretricious as to be foresworn, as is evidenced by the long established custom and practice of nation-states. The comparison of covert action with espionage is apt. Covert action is no more moral or immoral than espionage, and there are few, even today, who would urge the rejection of espionage as a legitimate means of protecting the security of the state.

The indictment of covert action as an immoral and unacceptable form of governmental action is voiced in another way: that covert action is meddling in the internal affairs of other nations, interference we would find unacceptable if done to our own nation. The naked fact is that nations, including our own, do meddle in the affairs of other nations by overt as well as covert means. We do forcefully meddle in the internal affairs of other nations which we war on, both during and after the war. The victorious state invariably imposes or tries to impose its will on the external as well as the internal affairs of the defeated state, e.g. after the defeat of Japan we imposed a constitution on that state which drastically altered its internal structure. "Forceful diplomatic representations," a euphemism for pressure, has been used and will be used by all nation-states (including our own) on nations we think vulnerable to such pressure in order to alter their external or internal policies. It has been plain in recent history that our government has, with public support, used the proffer of economic, technical and military support, or denied such support or threatened to withdraw it in order to shape the domestic and foreign policies of other nations.

Also, it is self-evident that espionage by its very definition is meddling in the internal affairs of the nation being spied on. We face the paradox: a U-2 airplane over the USSR is bad; a U-2 over Cuba is good; and the Soviet and American satellites over each others' air space is an accepted intrusion.

Another common objection to covert action is that the policy makers authorizing covert action maintain the secrecy of such authorization and its implementation. The statement is true, but the statement begs the question and poses the dilemma: if the authorization for and conduct of covert action is not kept secret, covert action would not be possible. This is reasoning in a circle. The need for covert action, and its concomitant secrecy are the responsibilities of the policy making bodies of the government, not of the operating agencies. From the point of view of the operational agency, covert action cannot be undertaken if the secrecy of governmental interest is not maintained. If this indispensable secrecy is not maintained or is so incompatible with our democratic process, then we face a world where both our friends and foes have no such disability.

Secrecy is not sinister of itself nor is it incompatible with democratic government, provided the secrecy is held to be in

the public interest and in the protection of the constitution and the rights which it guarantees to its citizens. Thus, the secrecy of the ballot box is deemed sacred. The secrecy of grand jury proceedings protects the constitutional rights of those who might be injured by public exposure of this pretrial ex parte inquiry. Nobody has suggested that the deliberations of the Supreme Court or the executive sessions of the Congress and its committees or our contingency war plans ought to be open to the public. And the need for secrecy within the Atomic Energy and National Security agencies is understood and accepted.

In American social mores, secrecy is to be avoided, and it is believed that our government should have no secret from its citizens. The paradox is that clandestine services and their work are essentially devoted to maintaining the security of our nation and the protection of the citizens' fundamental rights from those foreign powers which, for ideological or other reasons, wish to subvert both.

In the words of the Murphy Commission report:

Many dangers are associated with covert action. But we must live in the world we find, not the world we might wish. Our adversaries deny themselves no form of action which might advance their interest or undercut ours. In many parts of the world a prohibition on our use of covert action would put the U.S. and those who rely on it at a dangerous disadvantage.

Lastly, we cannot gloss over the potential damage when covert action operations are compromised and the governmental interest exposed. The ultimate question is whether the achievements of such action warrant that risk.

The risk-versus-gain evaluation is essential in every foreign policy operation, both overt and covert. As stated above, diplomatic pressure may be counterproductive, and many diplomats who have been excessive or inept in their diplomatic functions have found themselves on their way home before the end of their prescribed tours of duty. Economic pressure may be counterproductive as we learned in the case of the Aswan Dam loan and in our embargo on scrap iron and oil to Japan before World War II. Espionage operations, however productive, may cause severe damage to the relationship between the nations involved, as they did when Khrushchev cancelled the Paris Conference after Eisenhower refused to apologize for the U-2 shot out of Soviet skies.

Obviously, certain types of covert action operations are potentially damaging if exposed by the target nation. But it should not be assumed that all covert action operations are necessarily self-destructive. Covert action operations can succeed or fail in their objective without exposing governmental interest. And even in cases where governmental interest is exposed to the target nation, the very existence of the cover permits the target nation not to take cognizance of the operation if this is in its own interests.

I do not minimize the risk factor. All aspects of any covert action operation should be carefully weighed: the value of the objective to the nation; whether there are any overt means to attain the same objective; the probability of success or failure; the costs in terms of men, money and materiel; the chances of compromise and the political and other damage that might result should compromise occur. In that calculation, the covert action agency can evaluate the probability of technically executing the operation and the risk of compromise by accident or hostile counteraction. The remainder of the calculation is a matter for the determination of the policy making agencies of government, and not the covert

Present and future need for covert action

Obviously, the world we live in is quite different from the world in which covert action was organized 27 years ago. But it is not a better world; it is not a safer world. We have been through large-scale political, economic, military, and social changes. Communications have shrunk the world to the point where we can travel on peaceful journeys at supersonic speeds and can be destroyed by air ships and missiles traveling at the same speed.

In 1948 our government was the only healthy nation in the free world. We gave of ourselves and our resources to protect freedom for ourselves and those in the free world who wanted to become or remain free. We have been through cold war, hot war, prosperity and depression. At the end of that period we face a world in which the gap between our superior military strength and that of our potential adversaries has considerably narrowed. Our relative wealth and economic capability and its superiority over the rest of the world has shrunk dangerously, as measured by the fact that our share of the world GNP has been cut in half, thus limiting our ability to help ourselves and others. The monolith that we faced in the cold war has been broken, but it would be a brave geopolitician who would say that it could not be restored. Meanwhile, the Chinese and Soviets continue their separate and competitive campaigns of subversion, most recently in Africa. Soviet support for a communist take-over in Portugal is of direct concern to our country.

The number of nation-states in the world has trebled and the Third World constitutes a new factor replacing the polarity that existed before. There are supranational forces such as terrorism and drug traffic, and international combinations that never existed before which are inimical to our national interests.

Our foreign policy must be directed to meet these new problems. Whether they are all susceptible of solution by overt peaceful action is something for the policy makers to determine. In my belief some of them are not. As I have pointed out, guerrilla warfare and terrorism are not susceptible to diplomatic or conventional military or police action. They threaten the peace of nations directly involved and, indirectly, world peace. I do not know whether or what the intelligence collectors or the covert action operators are doing about these threats, but I hope that the appropriate means are being considered or employed.

It has been suggested that covert actions endanger détente. Evidently, the Soviet and its agent, the KGB, do not think so. But détente is not a fact; it is an evolutionary movement in an historical process. Our national security is not packaged in neat, tight time segments. Even wars are no longer susceptible to precise dating. The concept of a war fought by nations against other nations after formal declarations, with soldiers crossing national frontiers to fight other soldiers by an almost chivalric code, has been overtaken by other forms of armed conflict between nations. Undeclared wars are fought by "volunteers" in "wars of national liberation," frontiers are crossed by radio waves from open and clandestine stations; and crossed secretly by clandestine agents to accomplish by subversion what is impolitic or impossible by overt means.

To abandon or suspend the covert action capability is tantamount to unilateral disarmament.

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Whether and what covert action is desirable and feasible is beyond my competence, but it must depend on the judgment of those who have been elected or appointed to exercise that judgment in our interests. If distrust is to paralyze or limit our action all of us will suffer. The system has built-in checks for those who abuse that trust. The spate of "exposure" by the news media, criminal prosecution and civil suits, legislative action and public discussion sustain my confidence that no misuse of secret power can do irreparable harm before it is discovered, and corrective and punitive action taken. To withhold that trust because of fear and apprehension is to strip us of our capability to meet threats to our well-being. No better example of the necessity of placing that trust in responsible and accountable government officials is the power in the hands of the President of the United States over the secret arsenal having the most destructive force the world has ever known. He can use that power solely on his judgment and decision because there is no successful way that we can limit that power and still protect ourselves against the same potential destructiveness by hostile forces, against whom ours is a deterrent and counterforce.

Conclusion

Covert action is an appropriate function of government. Its first mission is the protection of the security of the state. It offers an optional form of action or supplement to overt action which is thought to be unacceptable or ineffectual.

The necessary secrecy of such operations is in the public interest. The scope and methodology of such operations can be delineated. Management responsibility and accountability can be adjusted and specified in the public interest.

The potential for abuse or misuse of covert action is minimal. It provides no real threat to the constitutional structure of our government or the rights of its citizenry that a governmental system of management from within and control from without the operating agency by the executive and through legislative oversight would not detect and correct before any irreparable damage was done.

To abandon or even suspend the covert action capability is tantamount to unilateral disarmament. A nation does not abolish the office of its chief executive because a single incumbent has abused his authority; a municipality does not abolish its police department because a policeman may have violated the laws; and a national army is not disbanded in peacetime.

In the world of today and tomorrow, the retention of the covert action capability is desirable if not essential, if we are to survive and further our interests with other nation-states. We cannot allow the domestic problems of our times to color our judgment on that need, or so restrict that capability that it would be ineffectual.

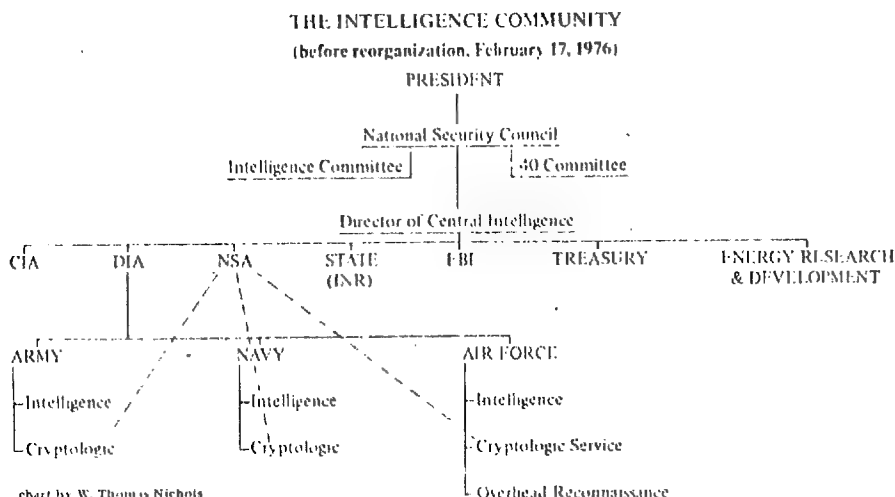
Some of the newly decolonized infant nation states are unstable economically as well as politically. Some of the heads of those states show definite signs of being mentally unstable. They represent potential threats to themselves and their neighbors. And they have shown a disposition to act by themselves and in concert with others to hold the older and more developed nation-states hostage to economic warfare over natural resources, some of which are essential to the security and well-being of our own country.

The monopoly on nuclear weapons has been broken. The nations moving into the nuclear field have a potential for massive destruction to themselves, their neighbors, our own country and world peace. The supranational forces in terrorist groups and international drug traffic have bases in countries which are unwilling or unable to control them. In all of these new threats to world peace, covert action may be able to meet these problems independently of overt action or to supplement it.

Notes

1. In this context, the Commission recommended that: "Covert action should only be authorized after collective consideration of its benefits and risks by all available 40 Committee members, and that: "Besides granting initial approvals, the 40 Committee should regularly review the continuing appropriateness of activities still being pursued."

2. "PL 93-559 be amended to require reporting of covert actions to the proposed Joint Committee on National Security, and to omit any requirement for the personal certification of the President as to their necessity."
3. Francis Dvornik, *Origins of Intelligence Services*, Rutgers U. Press, New Brunswick, 1974, p. 102.
4. "Demigrate everything that is good in your opponent's country. Involve the leaders in criminal enterprises and deliver them up to the scorn of their fellow countrymen. Undermine them in every way you can. Use the most vile and execrable of individuals, cause trouble by every means within their government, spread discord and quarrels in the opposing nation. Agitate the young against the old, destroy all their means, all of their weapons and above all the discipline of their armed forces. Cover with ridicule their traditions and values, be generous in your offer of rewards to obtain information and accomplices. Put secret agents everywhere. Never stint on your money and promises, you will reap rich rewards. The supreme excellence is not to win a hundred victories in a hundred battles, the supreme excellence is to subdue your enemies without having to fight them."—Sun Tzu, *The Art of War*, translation by Samuel B. Griffith, Clarendon Press, Oxford U. Press, London, 1963.
5. See Henry Merritt Wriston, *Executive Agents in American Foreign Relations*, Albert Shaw Lectures on Diplomatic History, 1923; Johns Hopkins Press, Baltimore, 1929, and Peter Smith, Gloucester, Mass., 1967, pp. 717-19, 767, 775, 823-4.



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General

Let's Stop Undermining the CIA

If the United States is to continue as a flag-bearer against totalitarianism, says this former Secretary of Defense, it must protect and preserve our international intelligence network

BY MELVIN R. LAIRD

WHE AMERICANS are on the verge of doing ourselves what our worst enemies have been unable to do: destroy our intelligence services.

Last year, Senate and House committees began searching investigations of the Central Intelligence Agency. The investigators' intent was honorable, and they have brought to light malpractices that must be curbed. According to Congressional findings and CIA admissions, during the 29 years the CIA has existed—1947 to 1976—agency personnel perpetrated the following questionable acts of domestic espionage: They illegally entered four

homes or offices, tapped the phones of 27 people, placed five U.S. citizens under surveillance and infiltrated ten agents into the anti-war movement. For over two decades, they opened private mail received by Americans from communist countries. Additionally, in examining possible foreign influence on the anti-war movement, the CIA accumulated files on approximately 10,000 American citizens.

The side effects of these investigations, however, have proved much more harmful to the country than the ills that Congress sought to remedy. As CBS commentator Eric Sevareid recently declared: "We've had Congressmen breaking solemn agreements with the Executive by leaking classified information in the name of higher laws of their selection. We have had journalists break-

continued

ing their word on information received off the record by leaking it to other journalists, which is morally the same as publishing it themselves. And, worse, we've had zealots publishing the names of American intelligence personnel—which, in this time of terrorists everywhere, increases the risk of kidnapping and murder. To do this is to commit the moral equivalent of treason."

The dubious acts committed by the CIA have been distorted and magnified, while lurid charges flourished, often without a scintilla of substantiation. For example:

Allegation: The CIA jeopardized public health by conducting biological-warfare experiments in New York City subways. *Fact:* The Army, to assess vulnerability of the transit system to sabotage, placed some innocuous powder in a subway, then measured how far it was wafted down the tunnel. The test menaced nobody. The CIA had no part in it.

Allegation: The CIA placed secret informants on the White House staff to spy on the Presidency. Its chief White House "contact man" for a while was Alexander P. Butterfield; later director of the Federal Aviation Administration. *Fact:* Butterfield never had any connection with the CIA. For the past 20 years, like other agencies, the CIA, at White House request, has routinely assigned specialists to the Presidential staff.

Allegation: The CIA has assassinated foreign leaders and perhaps even some Americans. *Fact:* More

than a decade ago, when a state of war existed between the United States and Cuba, the CIA involved itself in unsuccessful plots to kill Fidel Castro. It also considered poisoning Patrice Lumumba of the Republic of the Congo. But the prosaic truth, as established by the skeptical Senate investigators, is that the CIA never assassinated anyone anywhere.

Hemorrhage of Secrets. As the CIA's legitimate secret operations are exposed and its sensitive intelligence-gathering methods irresponsibly illuminated, our first line of defense against attack—and our only defense against covert attack—is becoming increasingly paralyzed. In foreign parliaments and press, the feasibility of confidential collaboration with America has been publicly questioned. Some countries have stopped confiding in us almost entirely for fear their confidences will be broken by Congress or the press. Individual foreigners who have risked their lives to secretly serve the United States—including agents well placed in the Soviet bloc and the Third World—have quit out of fear of identification. The difficulty of enlisting reliable new foreign sources has increased greatly.

Meanwhile, scores of gifted American men and women in the CIA possessing priceless expertise and experience have been disgusted at the pillory with which their patriotism has been rewarded, and many have even left. Important intelligence undertakings, approved

by Congressional committees and the President as essential to the national interest, have collapsed in the glare of publicity. For instance, disclosures that the United States has used submarines in Soviet territorial waters to monitor Russian weapons tests have greatly diminished the flow of this vital intelligence.

The hemorrhage of secrets is also destroying the CIA's capacity to act covertly in Western interests. Sometimes the discreet provision of money, information, advice and other requested help affords the only practical means of countering subversion abroad. Repeatedly, the Soviet Union has sought to subvert other nations by buying control of politicians, bureaucrats, journalists and trade-union leaders, by surreptitiously supplying vast sums to build the local communist party into the dominant political force. Plans to combat such subversion lose all effectiveness if announced. If identified, recipients of our assistance forfeit credibility and become instant targets of venomous attack by communists and others.

Record of Success. In an ideal world, we would need neither intelligence services nor armed forces. But we must have both if we are to survive in the real world of 1976, which has become very unsafe for democracy and the United States. Of the earth's 158 nations, only 39 presently maintain democratic, representative governments and open societies. Many of the totalitarian nations are fanatic in their

continued

hostility to freedom and to America. Our access to many indispensable natural resources depends upon fragile regimes. The complex daily functioning of our society is threatened by the phenomenon of international terrorism. Meanwhile, the Russians—besides their worldwide subversion, fomenting of revolution and support of terrorism—persist in an enormous, costly effort to attain undisputed military supremacy with which they hope to intimidate the West into further retreat.

To cope with all these threats and uncertainties, we must keep ourselves continuously and accurately informed as to what is happening, especially in those areas shrouded in totalitarian secrecy. To repel covert aggression, we must resort at times to covert methods. President Harry Truman and Congress recognized this when they created the CIA in 1947. And this unchanged reality has been recognized by every subsequent President—and Congress, except the present one.

Having served first on one of the Congressional committees that oversee our intelligence apparatus, and later as Secretary of Defense, I am familiar with some of the accomplishments of our intelligence services. Consider:

During the past 25 years, the Soviet Union has not developed a single major new weapon without our knowing it well in advance. Without such knowledge, we undoubtedly would have wasted untold billions preparing to counter

threats which did not actually exist. Current efforts to negotiate curtailment of the nuclear-arms race are possible only because our precise intelligence enables us to count every Soviet missile, submarine and bomber, and to monitor Soviet compliance with the treaties achieved. If we destroy the effectiveness of the CIA, we will destroy with it whatever hope there is of negotiating any significant disarmament.

Timely intelligence has helped avert war. During the 1973 Arab-Israeli conflicts, U.S. intelligence—live agents and technical surveillance—detected Soviet preparations to dispatch troops to the Middle East. Thus alerted, we were able to initiate urgent diplomatic and other actions that persuaded the Russians to forgo military intervention.

A few years ago, our agents—or spies, if you will—ascertained that one non-communist country was about to attack another. Details cannot yet be made public. But we quickly and privately brought the countries together, laid out the facts, induced them to negotiate. CIA espionage thus *prevented* a war.

Since late 1973, U.S. intelligence has given both Israel and Egypt considerable sense of security by continuously showing each what the other is doing militarily. Given proof that neither is about to pounce on the other, the Arabs and Israelis have been willing at least to try to devise a formula for Middle East harmony. Our intelligence has bought the necessary time.

Through infiltration of various terrorist movements, the CIA has aborted numerous plots. On at least two occasions, the CIA has forestalled assassins bound for the United States with orders to kill elected public officials. It has also thwarted plans to kill prominent American Jews with letter bombs.

While Israel's premier Golda Meir was visiting New York City on March 4, 1973, police rushed to busy midtown intersections and hauled away two cars with enough Soviet-made explosives to kill everybody within a 100-yard radius. The terrorist explosives were timed to detonate at noon, when streets would be most crowded. The disaster was prevented because we had advance warning of it.

Shortly before Christmas, 1973, the CIA learned that six small, hand-carried Soviet SA-7 missiles—extremely accurate against low-flying aircraft—were being smuggled in Libyan diplomatic pouches to Black September terrorists in Europe. The terrorists planned to shoot down a 747 landing in Rome. However, acting on CIA intelligence, European governments disrupted the operation and spared the lives of hundreds of holiday travelers.

The CIA has frustrated communist subversion of other nations. After World War II, the Soviet Union sponsored a massive clandestine effort to impose communist dictatorships on a weakened Western Europe. Communist operatives, dispensing millions of dollars, organ-

continued

aid and engender chaos. They infiltrated the press, tried to buy elections. By providing intelligence, money and counsel, the CIA gave anti-totalitarian factions a fighting chance to resist. Given this chance, the Europeans proceeded to build healthy democracies, indispensable to our own welfare.

During the 1960s, with Soviet backing, Cuba tried to ignite guerrilla warfare and violent revolution in Latin America. While quietly urging needed social reforms, the CIA offered Latin Americans the intelligence and training they needed to repel Cuban aggression. The communists were defeated in Bolivia, Venezuela, Brazil, Uruguay, Guatemala and the Dominican Republic. Much the same pattern was repeated in sections of Africa where the Russians sought to establish new colonies for themselves. In the Middle East, too, the CIA has repeatedly aborted Soviet plots to seize control of Arab nations.

In retrospect, it is obvious that not all of the covert actions undertaken by the United States in the past 20 years have been wise or justified. I strongly believe that we never again

covertly. Military action can succeed only if understood and endorsed by the public as well as Congress. However, if we abandon our capacity to discreetly help those who wish to resist externally inspired subversion—totalitarianism of either the left or right—we will reduce ourselves to a choice of abandoning them entirely or sending in the Marines.

IN SUM: If we allow our intelligence services to be rendered impotent, we will signal friend and foe alike that we lack both the will and the means to compete with totalitarianism. Unable to protect ourselves, or our friends abroad, America will shrink into isolationism, and our economy, denied essential foreign resources, will shrivel. Then we, and certainly our children, will discover too late that there is no place to hide from totalitarianism.

As a former Secretary of Defense, I believe that we should maintain armed forces stronger than those of any potential enemy. But without an equally strong intelligence service, our nation can never be secure. I know that. So do our friends and antagonists throughout the world.

MELVIN R. LAIRD was a U.S. Congressman from Wisconsin for 16 years, before serving as Secretary of Defense from 1969 to 1973. He is now Reader's Digest's senior counsellor for national and international affairs.

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THE CIA AND AMERICAN FOREIGN POLICY

BY ERNEST W. LEFEVER*

INTELLIGENCE, DEMOCRACY, AND U.S. FOREIGN POLICY

April 18, 1948, was a fateful day for the Italian people and the emerging Atlantic alliance. On that day the first postwar election in Italy was held. The vigorous Communist Party in Italy, with substantial support from the Soviet Union, was making a strong bid for power against the Christian Democrats and allied parties. Earlier that year Czechoslovakia had been seized by Moscow. President Harry Truman was determined that Italy should not fall and that the United States should "make full use of its political, economic, and if necessary, military power" to prevent a "Communist take-over."¹ Consequently, U.S. civilian agencies actively supported the Christian Democrats in the campaign, mainly by providing financial support. The democratic forces won an absolute majority and the Communist coalition received only 30.7 per cent of the vote.

The 1948 election did not end Soviet efforts to gain political control of Italy. In fact, the efforts were intensified. With Soviet support, the Italian Communists infiltrated labor unions, the universities, and other major centers of influence. The U.S. government continued to provide quiet assistance to the Christian Democrats, occasionally using novel means.

In late 1951, for example, an enterprising U.S. embassy official in Rome launched a small operation to expose Soviet duplicity among Italian Communist

* Dr. Lefever, Senior Fellow in Foreign Policy at The Brookings Institution, Washington, D. C., is author of *Ethics and World Politics: Four Perspectives* (John Hopkins 1972) and *TV and National Defense: An Analysis of CBS News, 1972-1973* (Institute for American Strategy Press 1974). His paper on the CIA is excerpted from a longer study which will appear in book form and was not prepared for Brookings.

¹ *New York Times*, February 12, 1975.

Party members. He had printed a small handbill, *Per Una Pace Stabile* ("For a Lasting Peace"), skillfully designed to look like a typical Communist handout. Its sub-title was: "25 Years of Soviet Efforts Toward Lasting Peace," and its red cover carried a picture of Picasso's dove of peace.

The leaflet, which bore no authorship, carried a long list of Moscow's international pledges since 1925, noting that the Soviets had "violated or denounced 10 non-aggression or neutrality pacts in 16 years" and had "violated 14 military alliances in 13 years. When the Soviet Union talks about peace, remember these facts!"²

In addition to distributing a million of these leaflets through regular trade union channels, the U.S. official had a bulk shipment sent to a major Communist Party mailing room in northern Italy, where the well-disciplined faithful automatically sent out twenty thousand more copies to Party members before they realized they had aided "the enemies of peace." The imaginative officer responsible for this operation was not the CIA station chief, but the chief of the U.S. Information Service in Rome.

This incident which occurred almost 25 years ago can serve as an introduction to the current debate on the role of the CIA and the value and morality of covert activities abroad. As an official U.S. operation involving secrecy and an element of deceit and designed to influence the internal affairs of a friendly state, the leaflet episode is similar to covert efforts in other countries since then, including U.S. financial support recently provided through the CIA to the Christian Democratic party in Chile.

Some Americans who supported U.S. covert activities in Italy in the 1950s and similar efforts in many countries in the 1960s under the Kennedy Administration, have opposed identical U.S. activities in Chile in 1970 and 1972. What they once praised, they now condemn. What has happened during the past quarter of a century? Have these critics of covert CIA operations been converted to a higher morality that condemns the activities because they are secret, because they are ineffective, or because their objectives are wrong?

In 1948 the vast majority of Americans and their leaders in the government, the university, and the communications media, believed that Soviet foreign policy was expansionist and that it, including its subversive support of local Communist parties, was a serious threat to Western Europe and ultimately to the security and freedom of the United States. In spite of growing Soviet military might and continued subversive efforts in the Third World, this earlier assessment of danger has been eroded by a conviction in some quarters that the Soviet

² Edward W. Barrett, *Truth is Our Weapon*, New York, 1953, pp. 152-56.

threat to the United States has passed the threshold of or have

There are those who believe that these people hold the key to the place by sensing a change in the Americans continuing to view Peking as a serious threat to the aligned countries in

One's perception of the adequacy or inadequacy of support it. Such perceptions and covert operations and cover operations essay attempts to explain over the CIA with respect to related issues are discussed

1. What are the major threats to the United States and the world? The United States as a world power peaceful change abroad in the Third World?

2. As one instrument of foreign policy. What is the CIA's role? What instruments? What are its goals in?

3. Have CIA covert operations been of legitimate U.S. foreign policy?

4. Can covert activities be successful in advancing U.S. foreign policy? What moral code for peace and war valid? What measures to provide assistance?

5. In our free society, is secrecy essential to national security? By what means? What national oversight procedures? What is irresponsible and unethical?

threat to the United States and the West has abated and that we are on the threshold of or have already entered an era of peaceful competition.

There are those, in short, who believe that the Cold War has ended. Some of these people hold that the U.S. Government created the Cold War in the first place by sensing a danger from the Soviet Union which did not exist. Other Americans continue to regard the foreign and military policies of Moscow and Peking as a serious threat to the United States and its allies as well as to non-aligned countries in the Third World.

Intelligence In A Free Society

One's perception of external danger is a chief point of reference for judging the adequacy or inadequacy of U.S. foreign policy and the instruments used to support it. Such perceptions affect one's view toward the intelligence gathering operations and covert political activities of the CIA. Consequently, the present essay attempts to examine the particular problems raised in the current debate over the CIA within the larger context of America's foreign policy. Five inter-related issues are discussed:

1. What are the principal threats to the security and independence of the United States and its allies? What are the major external responsibilities of the United States as a nuclear superpower dedicated to democracy at home and peaceful change abroad? What are the chief U.S. interests and objectives in the Third World?
2. As one instrument of U.S. foreign policy, what is the mandate of the CIA? What is the CIA's relation to military, diplomatic, economic, and information instruments? What kind of clandestine and covert activities has the CIA engaged in?
3. Have CIA covert political operations helped or hindered the achievement of legitimate U.S. foreign policy objectives?
4. Can covert activities carried out in another sovereign state, however successful in advancing U.S. objectives, be morally justified? Is there a different moral code for peacetime than for wartime? Is the moral distinction between peace and war valid in today's world? Under what circumstances is it appropriate to provide assistance to a government subjected to external subversive pressures?
5. In our free society, how can we reconcile the contradictory demands of secrecy essential to an effective foreign policy and the need for the public to be informed? By what means can the CIA be held accountable? Should Congressional oversight procedures be altered? What can be done about the problem of irresponsible and unauthorized disclosures of secret information by members of

Congress or officials in the Executive Branch? What should be done about the media which publish sensitive, classified information? What can be done to give the American people a better understanding of the necessity for foreign intelligence activities and the requirements for secrecy along with a recognition that these activities can be carried out in confidence without violating American democratic values?

America's Security and World Responsibilities

The primary responsibility of the U.S. Government, like that of any other government, is to defend its territory and institutions from enemies domestic and foreign. But unlike any other country, the United States is a nuclear superpower committed to democracy and peaceful change. In this unique situation, we have unique responsibilities commensurate with our power, wealth, and capacity to influence external events.

Most Americans agree on the basic facts about U.S. military power and economic strength, but we disagree about our capacity to influence the course of history and about the nature of our external responsibilities. In recent years our military power has declined in relation to that of the Soviet Union, though we still retain clear economic superiority. More important, there has been an erosion of confidence in the fundamental justice of our foreign policy and a weakening of our resolve to keep our commitments, demonstrated dramatically by our failure in Vietnam. Our disagreements over external objectives and obligations reflect the cleavage that has broken the great American foreign policy consensus that prevailed from 1945 to the mid-1960s.

The burden and ambiguities of the Vietnam War contributed greatly to the shattering of this consensus among intellectuals, policy makers, and other Americans. Since the mid-1960s a growing number of revisionist writers on postwar U.S. foreign policy have asserted that the United States, not the Soviet Union, has been the chief cause of the protracted conflict we call the Cold War, or that Washington, not Moscow or Peking, is the chief external obstacle to constructive development in the Third World.³ These revisionists often define development as "revolutionary" change in the direction of authoritarian socialism.

The present writer finds these revisionist interpretations of U.S. postwar policy unconvincing. There have been and are serious errors in U.S. foreign policy stemming largely from underestimating the tenacity of our enemies and the per-

³ William Appleman Williams, D.F. Fleming, Gar Alperovitz, Diane Clemens, and Gabriel Kolko are well-known "Cold War revisionists." Their views and scholarship have been criticized by Robert James Maddox, *The New Left and the Origins of the Cold War*, Princeton, 1973; and John Lewis Gaddis, *The United States and the Origins of the Cold War*, New York, 1972.

sistence of tradition in other societies for defense external events so much in arrogant crusading strain in policy leaves few b American omnipote

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⁶ Daniel P. Moynihan

sistence of tradition in the Third World and from overestimating the capacity of other societies for democratic government and our capacity to control or influence external events.⁴ Our errors, as Reinhold Niebuhr has said, are rooted not so much in arrogance as in innocence, although there has been and still remains a crusading strain in the American character.⁵ The series of recent failures in U.S. policy leaves few believers in what Denis Brogan once called "the illusion of American omnipotence."

Most of the states in the World today are economically underdeveloped, ethnically divided, and politically weak. The majority of the regimes in Asia, Africa, and Latin America are authoritarian and socialist-oriented. Their leaders are attracted by Communist rhetoric and envious of American economic productivity. Their prevailing ideology, as Daniel P. Moynihan has pointed out, is a kind of vague state socialism which emphasizes economic distribution rather than production and severely limits political competition and personal freedom.⁶ They are politically ambiguous and confused — an attitude often expressed in emotional anti-American outbursts. In rhetoric at least, Third World leaders frequently attack the alleged sins of the United States (e.g. "repression" in Puerto Rico) and overlook the real sins of the Soviet Union (e.g., the 1968 invasion of Czechoslovakia). Though reprehensible, this split-level ethic demonstrates that our critics expect more from us than they do from the totalitarian governments, and perhaps from themselves.

Against this backdrop, the United States, as a democratic super-power committed to humane goals, has two primary foreign policy objectives: to defend our national security and the values and institutions protected by that security and to work for a world order in which all states — large and small — can develop and pursue their legitimate interests without coercive interference from other states. These twin objectives must be pursued in two major arenas: the arena of big-power, strategic confrontation and the arena of the Third World.

The multiple responsibilities Washington has undertaken to prevent nuclear war and to neutralize nuclear blackmail attempts by the Soviet Union may be called the strategic task. And so far, U.S. policies dedicated to these ends have been totally successful — there has been no nuclear war and we have not capitulated to or engaged in nuclear blackmail.

Relating our power to the power of the Soviet Union is difficult, but relating our power to the weakness of Third World states is an even more complex task.

⁴ See Charles Burton Marshall, *The Limits of Foreign Policy*, Baltimore, 1969.

⁵ See especially, Reinhold Niebuhr, *The Irony of American History*, New York, 1952.

⁶ Daniel P. Moynihan, "The United States in Opposition," *Commentary*, March, 1975, pp. 31-41.

Our chief objective in Asia, Africa, and Latin America is interstate stability, a condition of peace that will permit each country to develop its own human and natural resources in its own way without external coercion. In pursuing this objective, we are confronted by political chaos, inexperience, and a vaguely socialist and largely irrelevant ideology in the Third World, and determined efforts by Moscow and Peking to exploit this situation for their own purposes.

In sum, the first objective of U.S. foreign policy is to maintain our national security and independence. The second objective is to strengthen interstate stability in both the strategic and Third World arenas. By virtue of our power, not by virtue of our virtue, we have a responsibility for keeping the peace commensurate with our capacity to do so. We have no mandate to remake other societies or to meddle in their affairs for the sake of internal reform. Intervention can be justified only if it is undertaken to strengthen or restore stability, a balance of forces that will permit peaceful continuity, adaptation, or change.

SOVIET FOREIGN POLICY AND THE KGB

During and since World War II the foreign policy of the Soviet Union has been expansionist in territorial, political, and ideological terms. Eastern Europe was occupied by the Red Army and incorporated into the Soviet orbit in defiance of the Potsdam agreements. Only Yugoslavia and Albania have succeeded in breaking loose. Efforts by Hungary and Czechoslovakia to assert greater independence were speedily crushed by Moscow. West Berlin has remained free only because of American support.

The Soviet Union has actively sought to weaken and destroy NATO by efforts to subvert or replace the governments of Western Europe. Working through indigenous Communist parties and other local groups, Moscow has exercised considerable influence at different times and places. In 1947, Soviet influence was great in Greece and Turkey. Currently, it is pronounced in Portugal.

The Soviet Union and the People's Republic of China have supported the military efforts of North Korea and North Vietnam to take over the southern portions of their respective countries. South Vietnam, Cambodia, and Laos have become the victims of Communist aggression.

Elsewhere within the Third World, Moscow has supported terrorist activity and other forms of insurgency and subversion designed to weaken and overthrow existing regimes. Cuba fell into the Soviet orbit and Chile under Allende --- with massive subversive pressure from Havana and Moscow --- almost met the same fate. Moscow has also made strong bids to become the controlling external influ-

ence in Indonesia, Afro-Asian countries.

Motivated by the desire to prevent the United States from becoming the dominant power in the world, the Soviet Union has pursued a policy of behavior designed to weaken the United States' political, economic, and military power. The Soviet Union has sought to bring about the collapse of client states, to create internal chaos and disorder, and to prevent the emergence of peaceful and cooperative relations.

One of the chief instruments of Soviet foreign policy is the KGB, the powerful security apparatus created by Lenin to control the Soviet Union. The KGB is a totalitarian organization that controls every nook and corner of Soviet life. It enforces loyalty, and even the most minor deviations are punished. The KGB supplements all other Soviet institutions as instruments of control. Soviet citizens as did in the past under Stalin, but it is now abroad have under the KGB.

The long tentacles of the KGB reach into the Third World, the Middle East, and all other Soviet spheres of interest. The KGB has been active in SALT negotiations, in trade groups abroad, and in other important conversations with their respective agents.

While there are many differences between those of Western civilization and those of the Soviet regime ideologically,

Former U.S. SALT negotiator, a senior KGB agent who was involved in the negotiations between Hope and Skepin.

ence in Indonesia, the Congo (now Zaire), Ghana, Somalia, Uruguay, and other Afro-Asian countries.

Motivated by their messianic dream and historic drive for power, and confident in the ultimate triumph of their totalitarian system, the two principal Communist powers engage in diplomatic, economic, propagandist, and subversive behavior designed to overthrow moderate governments, to destroy mutually beneficial economic ties between Third World states and the West, and to develop client states subservient to Moscow or Peking. These policies often exacerbate internal chaos and compromise or destroy the political and economic instruments of peaceful and constructive development.

The Power of the KGB

One of the chief instruments for achieving Soviet external objectives has been the KGB, the powerful and massive successor to the clandestine apparatus created by Lenin to be the "sword and shield" of the Communist Party. As a vehicle of totalitarian control, the KGB has no peer, past or present. At home, it penetrates every nook and cranny of Soviet life to control the words, actions, tastes, loyalty, and even the thoughts of Soviet citizens. Abroad, the KGB controls and supplements all other Soviet agencies and attempts to use local Communist parties as instruments of its will. Today the KGB may not deal as ruthlessly with Soviet citizens as did its predecessors during the dark days of the Gulag Archipelago under Stalin, but its wide range of subversive and sometimes brutal activities abroad have undergone little or no change.

The long tentacles of the KGB reach out in support of all Soviet strategic and Third World objectives. KGB officers hold key positions in the Foreign Ministry and all other Soviet agencies overseas. The KGB has been well represented at the SALT negotiations.¹ KGB officers accompany all Soviet scientific, cultural, and trade groups abroad. Members of these missions are required to report all important conversations with their foreign counterparts to the KGB control officer in their respective agencies.

While there are superficial similarities between KGB operations abroad and those of Western clandestine agencies, there are many significant differences, all rooted in one fundamental fact -- the KGB is the instrument of a totalitarian regime ideologically committed to the neutralization or destruction of selected

¹ Former U.S. SALT negotiator, Paul H. Nitze, estimates that one-third of the Soviet delegation at the first SALT session in Helsinki was involved in espionage work. The executive secretary of the delegation was a senior KGB agent who had been expelled from Finland. See: Paul H. Nitze, "The Strategic Balance Between Hope and Skepticism," *Foreign Policy*, Winter 1974-75, pp. 441-44.

non-communist governments and motivated by the conviction that the Communist system is destined to prevail in the world.

The KGB enjoys a power and autonomy not accorded any other Soviet government agency. It is accountable only to the Politburo. Unlike the CIA, the KGB is a major policymaker as well as an instrument of policy. It participates actively in all foreign policy decisions as well as in carrying them out. Unlike the CIA, the KGB is never criticized in the Soviet press, but it is authorized to criticize any other government agency or official. Unlike the CIA, the KGB is not subject to the rule of law, even Soviet law. Hence, it is constrained neither by law nor by fear of public disclosure. And unlike the CIA, the KGB has a massive domestic role.

The KGB, in short, is a creature of the Communist Party and the Leninist ethic, both of which sanction any means, however inhumane, that yield the desired results. Unlike Western intelligence agencies, the KGB is not constrained by the Judaeo-Christian ethic which insists that the means employed by the state, even in war, be limited by law and humane considerations. The Western ethic categorically rules out on moral grounds torture, the deliberate killing of noncombatants in war, and certain other means, even if they are used in a just cause. Western governments often violate their own norms, but this does not invalidate either the norms or the fact that partial observance of the norms results in less cynical and brutal policies and behavior.

In Communist doctrine, *truth* and *justice* are defined pragmatically and cynically by the Party, but according to the Western ethic, truth and justice are transcendent norms by which all parties, governments, and individuals must be judged. It is widely recognized that the KGB is the epitome of Communist cynicism because it "denies every value a civilized society treasures."²

KGB Activities Abroad

According to John Barron, an authority on the KGB, "Officers of the KGB and its military subsidiary, the GRU [Chief Intelligence Directorate of the Soviet General Staff] ordinarily occupy a majority of [Soviet] embassy posts" as much as 80 percent in some Third World countries.³ In Washington, the FBI estimates that over 50 per cent of the 200 or more Soviet representatives, including trade officials and Tass correspondents, work for the KGB. In addition, the KGB has placed many of its agents on the U. N. headquarters staff in New York and in the Soviet embassy in Mexico City for operations against the United States. For sev-

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² Editorial, *Washington Post*, April 3, 1975.

³ John Barron, *KGB: The Secret Work of Secret Soviet Agents*, New York, 1971, p. 17.

⁴ *Ibid.*, An entire ch

eral years, Secretary General U Thant had as a personal assistant, Victor Les-siovsky, a KGB agent, says Mr. Barron. He also says that probably half of the some 200 Soviet citizens employed by the U.N. Secretariat are KGB agents, at least one of whom was assigned to the KGB's Executive Action Department which is responsible for political murders, kidnappings, and sabotage. This department has employed professional gangsters in Germany, Ireland, Mexico and perhaps elsewhere to do its dirty work.⁴

In September 1971, the British Government publicly expelled 105 KGB and GRU officers, but only after Moscow had "contemptuously ignored" London's quiet request to desist from a campaign to "suborn politicians, scientists, busi-nessmen, and civil servants." Between 1970 and July 1973, says Mr. Barron, 20 governments expelled a total of 164 Soviet officials because of their illegal, clan-destine activities.

In earlier years, the Soviet Union supported only those terrorist groups which KGB agents controlled or thought they could control. Today the KGB trains and materially supports a larger number of terrorist organizations, including some operating against black and white regimes in Africa, several in the Middle East and Latin America, the Quebec Liberation Front, and terrorists in Northern Ire-land.

Many terrorist leaders have been trained in the Soviet Union, but assistance to their groups is frequently assigned to the KGB-controlled or influenced clan-destine services in Cuba, Czechoslovakia, East Germany, Poland, or Hungary. At the KGB's behest, the Cubans have trained both Palestinian and Irish terror-ists. KGB operatives are also active in encouraging, supporting, and organizing "peace demonstrations," riots, and other disturbances to discredit regimes in many countries whose character or policies Moscow opposes.

One of the lesser known KGB activities is the "disinformation" program de-signed to discredit individuals, institutions, and governments by disseminating forgeries, literary hoaxes, and false information and by committing murder and other crimes for psychological-political effects. One such effort was the campaign charging that the United States used germ warfare in Korea. Disinformation ef-forts can be seen as a supplement to the partially factual, the seriously slanted, and outright false propaganda against the United States and other targets that issues almost daily from Tass and Radio Moscow.

If it were not for the KGB and all that it represents, we would be living in a freer and more peaceful world and the external responsibilities of the United States would be less complex and demanding. Wishing for a world without the

⁴ *Ibid.*, An entire chapter is devoted to the Executive Action Department of the KGB, pp. 306-31.

KGB recalls a statement attributed to James Madison in *The Federalist, No. 51*, published on February 6, 1788: "If men were angels, no government would be necessary." To paraphrase, if there were not KGB operations abroad, there would be little need for CIA operations. It is almost, but not quite that simple.

MANDATE AND ACTIVITIES OF THE CIA

Of the four principal U.S. agencies gathering foreign intelligence, the CIA is the best known, probably because of its cloak and dagger mystique. Two operate under the Defense Department — the Defense Intelligence Agency (DIA) which focuses on the military capabilities and intentions of foreign states and the National Security Agency (NSA) which is primarily concerned with breaking and monitoring the secret codes of other governments. The National Reconnaissance Organization (NRO), which engages in satellite photography, is a joint CIA-Defense Department activity. All four agencies are involved in some secret activities, although the DIA emphasizes “open” intelligence gathering in accord with the accepted international practice of the military attaches of all governments who are assigned to embassies abroad. Satellite reconnaissance is also open. Washington and Moscow each know the other is photographing its territory.

A distinction should be made among three words that are used in the intelligence community — secret, clandestine, and covert. *Secret* is the broad inclusive word simply referring to activity conducted without the knowledge of others, such as secret meetings or negotiations. *Clandestine* refers to secret activity which is intended to remain secret indefinitely, such as the names of intelligence agents and other sensitive sources of information. *Covert* political activity is also secret, but it has a public manifestation: the result becomes known. For example, if the CIA provides newsprint for an opposition newspaper in a Latin American country, the paper will be published although the public will not know the source of the funds.

Both clandestine collection and covert political activities imply an element of craft or deception. Covert operations are usually undertaken in an adversary situation in which the United States is attempting to assist one side. Deception is regarded as a desirable asset in a variety of human contests ranging from football to warfare. When a quarterback fakes a pass or a commander sends out false signals about where his troops will strike, each is attempting to deceive his adversary.

Under Western ethical norms, however, deception is not permissible in a situation of trust and confidence. When the director of the CIA testifies before a

Congressional control is not available to the President. In principle, the CIA director is responsible for CIA activities, the methods from unauthorized sources.

The CIA is primarily engaged in intelligence gathering. Only a small portion of its activities are disclosed by the National Security Agency. American perceptions of the CIA and the Middle East have been shaped by a peacetime intelligence agency's role in our security and the lives of Americans, including the fact that some concern that the CIA is not an American people's organization, difficult to monitor, and operating on American soil. It was established as a police function.

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Congressional committee he is expected to tell the truth. Since the CIA is accountable to the President and the Congress and through them to the American people, the CIA director is morally and legally obligated to answer questions about CIA activities, though by law he is required to protect "intelligence sources and methods from unauthorized disclosure."

Mandate of the CIA

The CIA is primarily an agency for gathering and evaluating foreign intelligence. Only a small portion of its activities involve covert operations. It was established by the National Security Act of 1947, partly in response to a growing American perception of threat from the Soviet Union to U.S. interests in Europe and the Middle East. President Truman and the Congress agreed that we needed a peacetime intelligence agency to augment other instruments for safeguarding our security and that of our allies. At that time and later many thoughtful Americans, including Mr. Truman and Secretary of State Dean Acheson, expressed some concern that the new agency be kept accountable to the President and the American people, recognizing that clandestine overseas activities are often more difficult to monitor and evaluate than those of a more open agency operating on American soil. It was unanimously agreed that the CIA should have no domestic police functions.

The 1947 act specifies that the CIA "correlate and evaluate intelligence relating to national security, and provide for the appropriate dissemination of such intelligence within the Government..." The act calls upon the CIA to perform services of "common concern as the National Security Council (NSC) determines can be more efficiently accomplished centrally" and "to perform such other functions and duties related to intelligence affecting the national security" as the NSC "may from time to time direct."

The act says the "Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." The CIA act of 1949 further states that the agency is exempted from any "law which requires the publication or disclosure of the organization, function, names, official titles, salaries, or numbers of personnel employed by the agency..." The 1947 act states that the CIA "shall have no police, subpoena, law enforcement powers or internal security functions."

Operating within this broadly-worded directive, the CIA has three main functions, all clearly related to foreign intelligence gathering and operations, according to its current director, William E. Colby:

1. To produce intelligence judgments, based on information from all sources, for the benefit of policy makers. The product is in the form of publications and bulletins on current development, estimates of future international situations, and in-depth studies on various topics — for example, a study of the origins and growth — over time — of potentially hostile strategic weapons programs.
2. To develop advanced technical equipment to improve the collection and processing of U.S. intelligence.
3. To conduct clandestine operations to collect foreign intelligence, carry out counterintelligence responsibilities abroad, and undertake — when directed — covert foreign political or paramilitary operations.¹

The most controversial CIA activities have been “covert foreign political or paramilitary operations” which are carried out under the agency’s authority “to perform such other functions and duties” as directed by the NSC. A variety of small and large covert political operations have been undertaken. Of those known to the public, some have been successful, some have not.

Gathering Foreign Intelligence

The principal responsibility of the CIA is to gather and evaluate foreign intelligence. Much information is collected from open sources like radio broadcasts and newspapers of more than a hundred countries. Among the clandestine intelligence gathering operations that go beyond the normal range of classic espionage, and which have an element of deception, three are mentioned here to indicate their variety and utility. Each involves sophisticated and innovative technology.

First, in the mid 1950s the CIA developed the high-altitude U-2 plane. This specialized aircraft took a warehouse full of high-quality photographs of military and industrial facilities in the Soviet Union before one of them flown by Francis Gary Powers was shot down over Russia in 1960 by a Soviet surface-to-air (SAM) missile. The U-2 was also used extensively and successfully to photograph sensitive facilities in the People’s Republic of China.

U-2 flights played a key role in identifying the Soviet surface-to-surface missiles in Cuba in 1962 which precipitated the first nuclear confrontation between Washington and Moscow. With the aid of agent reporting, the U-2 cameras spotted the offensive missiles in Cuba before Soviet SAM sites were fully operational. When operational, the medium range SAMs would have been capable of delivering nuclear warheads to targets covering two-thirds of the United States, all of

¹ From a statement by William E. Colby, Director of Central Intelligence, submitted to the Senate Appropriations Committee, January 15, 1973. *New York Times*, January 16, 1973, p. 30.

Central America, and the U-2 plane was forced Moscow to

These U-2 operations by further technological capacity of the U-2s in orbit around the earth developed by the CIA. The U-2s operated jointly with other satellites gathered a wealth of capabilities.

These satellites were photographing Soviet territory, of whom were alerted to one of the key pieces of the Soviet adventure.

The third operation was an effort to salvage the wreck of the U-2 to the bottom of the sea, called, involved the *Explorer*, which for the sea floor. The *Explorer* which recovered the wreckage from 16,000 feet cost \$350 million. U.S. Navy mission which destroyed the Soviet submarine. Meanwhile Soviet

Project Jennifer was widely praised as a CIA is only to be a special mission,”² and function brilliantly.

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² *New York Times*, May 1, 1973.

³ *Washington Post*, May 1, 1973.

Central America, and a portion of South America. The intelligence provided by the U-2 plane was essential in developing the U.S. strategy that successfully forced Moscow to withdraw its missiles from Cuba.

These U-2 operations, widely regarded as brilliant successes, were overtaken by further technology — Soviet SAMs able to reach high-altitude planes and the capacity of the United States and the Soviet Union to place high resolution cameras in orbit around the earth. The U.S. reconnaissance satellite system was developed by the CIA in cooperation with other government agencies and is now operated jointly with the Defense Department. These orbiting cameras have gathered a wealth of valuable information about Soviet and Chinese military capabilities.

These satellites also played a role in the October 1973 Arab-Israel war by photographing Soviet paratroopers and supplies at Soviet airports, some of whom were alert and ready to take off for Egypt. This detailed intelligence was one of the key pieces of evidence, along with a harsh diplomatic note from Moscow, which led to a worldwide U.S. military alert that may have aborted the Soviet adventure.

The third operation involves not the sky but the ocean — the CIA's successful effort to salvage portions of a Soviet submarine which in 1968 exploded and sank to the bottom of the Pacific, 750 miles from Hawaii. Project Jennifer, as it was called, involved the construction of a large and unique salvage vessel, the *Glomar Explorer*, which for cover purposes was described as a ship to mine minerals from the sea floor. The construction of the vessel and the 1974 summer operation which recovered significant portions of a Soviet Golf-class diesel-electric submarine from 16,000 feet beneath the surface of the Pacific is reported to have cost \$350 million. U.S. listening devices planted on the ocean floor heard the explosion which destroyed the Soviet submarine and computers plotted its location. Meanwhile Soviet trawlers were searching for it 500 miles away from the wreck.

Project Jennifer is universally regarded as a great technical achievement, and widely praised as an intelligence coup. A *New York Times* editorial said: "The CIA is only to be commended for this extraordinary effort to carry out its essential mission,"² and the *Washington Post* said the CIA "was performing its prime function brilliantly."³

The accomplishment would probably have been even more brilliant if the press had refrained from publishing this sensitive information until the salvage operation could be completed in the summer of 1975. The press knew the CIA

² *New York Times*, March 20, 1975.

³ *Washington Post*, March 23, 1975.

planned to recover other portions of the submarine, including several of the nuclear warheads and the coding equipment. If this now proves impossible, the United States will be denied valuable additional information about Soviet nuclear warhead technology and about Soviet code traffic in 1968, the year the Russians invaded Czechoslovakia.

These technical means for gathering intelligence have their limits. Cameras can provide a great deal of information on an adversary's military capabilities, but they cannot reveal his research and development capabilities or his intentions. To gain some understanding of the motives and strategies of other governments, we must continue to rely on CIA officers and the clandestine service and their agents and on information provided by refugees, defectors, and Americans who live or travel abroad. In this fundamental sense, espionage has changed little over the centuries.

Covert Political Activities

As distinguished from clandestine information-gathering operations, the CIA has engaged in covert political activities designed to alter what the U.S. Government believes to be critical or dangerous situations, such as the potential victory of the Communists in Italy in 1948 or the imminent subversion of a friendly government. Various means have been used to support governments, political leaders, parties, labor unions, business firms, farm groups, and other organizations or individuals carrying out policies which appear to serve both the interests of the countries concerned and U.S. objectives. This covert support has been given in the form of financial contributions, equipment, advice and training. The volume of such covert operations has greatly declined since the 1950s and 1960s, reflecting in part a change in the official perception of specific threats. All such activities have been authorized by the President or high officials speaking in his name.

Covert political activity is usually calculated to achieve short-range objectives like an election victory. It has sometimes been directed toward a longer-range goal of weakening extremist groups, which are often supported by the KGB and attempt to gain power by violence or other illegal means. The CIA has occasionally supported opposition efforts to overthrow regimes that were collaborating with Moscow or with its allies, such as East Germany or Cuba.

The essence of CIA political activity is to identify and strengthen indigenous organizations, not to manipulate or control them. The CIA does not inject an alien force or ideology into a Third World country, but rather cooperates with local labor, student, farm, business, or political groups which are disposed to support a moderate and effective government that will pursue a non-belligerent foreign policy.

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CIA officers overseas and their agents slowly cultivate promising contacts in positions of power or influence over the years, both within the existing regime and in opposition groups. The KGB has an easier task because it has ready access to the political situation through the local Communist Party. In a case where the regime is in danger of being subverted by Moscow (e.g., Iran under Mossadegh) or is developing a belligerent foreign policy (e.g., Indonesia under Sukarno), internal opposition groups naturally arise. They do not have to be created, but they do frequently ask for U.S. support. If the group espouses moderate policies and seems reasonably well organized, the NSC may authorize the CIA to assist it. In virtually all situations, the CIA responds to opportunities. But if prior contacts had not been built up over time, there would be few opportunities to respond to.

In some turbulent situations where the government in question has been assailed by subversion or even insurrection, or where it is not clear who is in charge, the KGB and the CIA have found themselves engaged in a kind of undercover war, each helping the faction or factions closest to its government's objectives.

Seen in this light, covert operations are a supplement to U.S. diplomacy, economic aid, information, or cultural exchange efforts which seek to modify the economies, public opinion, and foreign policies of other countries through quiet persuasion and various open programs.

The CIA has also subsidized or established American organizations to assist in operations and to serve as a cover. In the 1950s and 1960s, the CIA financed and operated Radio Free Europe, which broadcasts to Eastern Europe, and Radio Liberty, which broadcasts to the Soviet Union. These efforts to influence opinions behind the Iron Curtain were open, but their sponsorship was concealed. In the past, the CIA also helped finance certain activities of the National Student Association, the Asia Foundation, and *Encounter*, a journal published in London, all designed to counter Communist propaganda and KGB efforts to penetrate legitimate international student and intellectual groups. The CIA did not attempt to mould the thinking of those assisted, but rather to provide them with wider opportunities to express their own views. As Gloria Steinem, who accepted such assistance put it, the CIA "wanted to do what we wanted to do — present a healthy, diverse view of the United States," adding that "I never felt I was being dictated to at all."⁴ Nevertheless, there was an element of deception in a situation where confidence should have prevailed, and this practice by the CIA was discontinued. Such educational and cultural groups are now openly supported by U.S. Government funds.

Technical support efforts for the CIA, however, fall into a different category,

⁴ *New York Times*, November 21, 1967.

and the purpose and source of funds for these efforts must necessarily be concealed, at least until the operation is completed. Project Jennifer is a case in point. This would have been impossible to execute without the secret cooperation of various American firms.

CAN COVERT ACTIVITIES BE JUSTIFIED?

All clandestine intelligence gathering activities and covert political operations carried out in another sovereign state are illegal in that state. All such activities involve an element of deception and are largely hidden from the eyes of the people whose government carries them out as well as from those of the country where they take place.

Can illegal, covert activities of the CIA, which serves a democratic government and represents an open society, be morally justified? Are such activities essential to the security of the United States?

Perhaps the second question should be addressed first. We are living in a dangerous world. To protect their interests, all major powers have extensive clandestine intelligence services which sometimes engage in covert political operations. On the purely pragmatic level, the United States would be at a disadvantage if it denied itself an instrument fully available to its allies and adversaries. Faced with the threats of two expansionist and nuclear-armed Communist powers, and many lesser threats around the world, our government would be derelict in its duty if it did not have the best and most modern means available for gathering intelligence. There is little dissent on this. And most Americans would agree that the United States should not unilaterally abstain from covert operations, though some CIA critics take the opposite view.

Moving from pragmatic to moral considerations — and the two should never be wholly separated — can a free society engage in covert activities abroad without violating its fundamental values? These values, of course, include the security of our country and the survival of our free institutions. To serve these ends, for example, we fought in World War II and we believe our participation was justified both by our objectives and the actual outcome.

Foreign intelligence can be thought of as a form of warfare. Like war, intelligence is an extension of diplomacy. Covert operations in peacetime, like all foreign policy instruments, are designed to serve our fundamental national interests, which include efforts to protect the security of our allies. Hence, all activities of our government in peace or war can and should be judged by the same fundamental political and moral standards.

The doctrine of Christian moral tradition on the relationship between Catholic and Protestant the just war theory, political community, political community, view of statecraft has a moral yardstick for operations.

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¹ Paul Ramsey, *The Just War*, xvii, and 178-88. See also Baltimore, 1960.

² *Complete Works of Leo*

The "Just War" Theory as A Moral Yardstick

The doctrine of the "just war" has been an essential part of the Western Christian moral tradition for a thousand years. This doctrine which defines the proper relationship between military force and political responsibility is deeply rooted in Catholic and Protestant ethics. Though it specifically relates to military conflict, the just war theory can be applied generally to the problems of "political authority, political community, and political responsibility."¹ In short, this Western view of statecraft has direct relevance to all facets of foreign policy and provides a moral yardstick for assessing the justice or rightness of particular intelligence operations.

The just war theory does not serve as a guide as to what specific activities our government should undertake. That must be determined by the nature of the threat, the resources available, and other circumstances. But it does advance three criteria which place certain limitations on what is acceptable according to Western political ethics. In contemplating military or other political action, three questions must be addressed: 1) Is the objective of the action just? 2) Are the means both just and appropriate? 3) Does the action have a reasonable chance of success?

Before discussing these questions, it should be noted that all societies and political philosophies have their own "just war" theories. For Mussolini and Hitler, wars of territorial expansion were justified. For the Communists, revolutionary wars and "wars of national liberation" are just. "There are wars," said V. I. Lenin, "which are just and unjust, progressive and reactionary, wars of the leading classes and wars of the backward classes, wars which serve to strengthen class oppression and wars which are aimed at overthrowing it."²

1. *Is the objective of the action just?* Different actors in the international drama naturally define justice differently, often to suit their own immediate and self-serving interests. But according to Western norms, embodied in international law and the U.N. Charter, military action solely for the purpose of conquest or subjugation is always wrong. Any aggression against another state is illegal, whether by overt military action or by covert means. Conversely, military action designed to defend the territory of one's state or that of an ally against external attack or aggression is justified. Aggressors usually attempt to justify their action by asserting that it was taken in self-defense. Hitler so described his attack on Poland in 1939. The situation is often confused and complex, but the distinction be-

¹ Paul Ramsey, *The Just War: Force and Political Responsibility*. New York, 1968, p. xi. See also, pp. vii-xvii, and 178-88. See also, Robert W. Tucker, *The Just War: A Study in Contemporary American Doctrine*, Baltimore, 1960.

² *Complete Works of Lenin*, Volume 38, p. 337.

tween the aggressor and the victim is usually relatively clear, at least to outside observers.

The just objective requirement can also be expressed by this question: If the military action succeeds, will the post-belligerency situation likely provide a better chance for peace, security, justice, and freedom than the antecedent condition? Which, for example, would have been the better outcome for World War II — an allied victory or an axis victory?

A just war or a just covert operation can never be undertaken for trivial motives, such as the desire to bolster the ego of a ruling group, or inappropriate purposes, such as the reform of other societies or institutions.

2. *Are the means both just and appropriate?* Just ends can be betrayed by unjust and inappropriate means, but the question is not simply a pragmatic one. The force to be used must be proportionate to the problem. Excessive force is always wrong, though it is often difficult for a commander to know how much force is required to achieve a specific objective. Assuming one is engaged in a just cause, e.g., repelling an invader, the use of too little force is also wrong because it may prolong the struggle or even make possible the success of the aggression, thus causing a greater loss of life, a setback for justice and independence, or both.

Certain uses of force are categorically wrong. These include the wanton, purposeless, or nihilistic destruction of life or property. Hence, the U.S. military code prohibits the deliberate killing of civilians, troops who are surrendering, or prisoners of war, and, on the contrary, requires that these groups be protected and cared for. Because of our principles, the U.S. armed forces in Vietnam went to great lengths, expense, and some risk to spare civilians and help resettle refugees.

For the same reason, the American people were shocked by the senseless killing by U.S. soldiers of 22 to 347 unarmed civilians in My Lai in 1968. On the Communist side, in contrast, vengeance killings, such as the cold-blooded murder of at least 2,700 civilians (but perhaps as many as 5,000) in Hue during the 1968 Tet offensive, and the shooting at refugee columns in 1975, are rationalized by a peculiar Leninist logic that transforms its innocent victims into non-persons. The massive flow of refugees from the Communist to the non-Communist sides in Vietnam and Germany provides dramatic evidence that the contrasting ethics of the Communist and Western worlds have very practical, life and death consequences.

3. *Does the contemplated action have a reasonable chance of success?* However noble the end and just the means, military action is not justified if it has little or no prospect of achieving its objective. Assessing the chances of success or failure is a moral as well as a practical imperative. A parable of Jesus makes this point: "Or

what king will march out to consider whether he can win him with twenty thousand men, he sends envoys.

The just war theory is a theory of conditions in which coercion is justified. Since 1945 we have seen the use of coercion in Peking, and their ends means to achieve the ends.

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Have CIA activities a larger question: have they during and since World War II allies and attempted to submit all countries to the

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what king will march to battle against another king, without first sitting down to consider whether with ten thousand men he can face an enemy coming to meet him with twenty thousand? If he cannot, then, long before the enemy approaches, he sends envoys, and asks for terms." (Luke 14:31-32.)

The just war theory has special pertinence to wartime or other conflict situations in which coercion is an accepted means of pursuing the state's objectives. Since 1945 we have been living in a condition of Cold War in which Moscow, Peking, and their clients, employ both peacetime and wartime (i.e. military) means to achieve their expansionist objectives.

Confronted by these dangers, it would appear that the United States, its allies, and other endangered governments are justified in employing unusual, and even coercive means, as long as they meet the three just war standards. In the following discussion, each of these requirements is used to evaluate a variety of CIA covert activities which have become publicly known.

Are the Objectives Just?

Have CIA activities been undertaken to achieve just ends? This raises the larger question: have U.S. foreign policy objectives been just? The United States during and since World War II has sought to defend its security and that of its allies and attempted to develop a structure of interstate stability that would permit all countries to develop peacefully. These are just ends.

But occasionally, Washington has pursued policies designed to reform other societies, to alter their indigenous institutions, motivated by a kind of crusading impulse to export liberal democracy and not directly related to the fundamental purpose of our foreign policy. It is difficult to justify efforts to reform other peoples and governments, whether the reformer be Washington, Moscow, or Peking. External reformers tend to be arrogant and imperialist and to overlook the severely limited capacity of any outside agency to influence and reshape alien cultures.

The crusading impulse to reform should be clearly distinguished from the humanitarian motive that has prompted the U.S. Government to do more for the foreign victims of famine, earthquake, and war than any other government in history. Earthquake relief is not designed to restructure institutions, overthrow regimes, or promote "free elections."

Reform intervention should also be distinguished from intervention designed to deal with threats to or breaches of international peace, e.g., U.S. military involvement in Korea. Such intervention is justified if it meets the just war criteria.

According to these definitions, most U.S. postwar policies can be justified, though some have not met the test. All efforts to impose alien institutions in a

friendly state by threat, bribe, or manipulation, and unrelated to the requirements of interstate stability, are highly questionable or wrong, whether undertaken overtly by AID, USIA, the Peace Corps, or covertly by the CIA.

Any U.S. activity, covert or overt, designed to strengthen interstate stability can be said to meet the requirement of the just end. Conversely, any activity calculated solely to reform domestic institutions within a friendly state falls short. Hence, the U-2 flights over Russia can be justified because they sought to provide intelligence about the adversary's military might which would enable the United States to take prudent measures to deter a first nuclear strike by Moscow.

U.S. support for the Bay of Pigs invasion cannot be faulted because of its ultimate objective. The Cuban people, like Moscow's clients in Eastern Europe, had no peaceful political alternative to Castro. The CIA-supported landing of Cuban exiles was designed to provide the Cuban people with an alternative to the totalitarian and expansionist regime, with the hope that the people would be able to establish a moderate government that, among other things, would refrain from subversive military action against other Latin American states. Washington clearly had and still has a special treaty and moral obligation to help maintain peace in the Western Hemisphere. The Bay of Pigs effort was a fiasco, not because of its objective, but because it failed to meet the other two just war requirements — appropriate means and a reasonable chance of success.

In Chile, the CIA's financial aid to the Christian Democratic and other moderate parties and to their newspapers during President Allende's Marxist regime cannot be faulted by the short-term or longer-term ends sought. The more immediate objective was to keep political competition alive in a situation where the minority Allende government, which received only 36.4 per cent of the vote, was using a variety of illegal and coercive means to neutralize the legislature, the Supreme Court, the opposition parties, and non-subservient news media. If political opposition could be maintained, it was hoped that the 1976 election would result in a return to power of a democratic coalition which would pursue a responsible and peaceful foreign policy.

Evidence indicates that Allende and his violent revolutionary supporters were attempting to transform Chile into a totalitarian state on the Cuban model which would be increasingly used by Havana and Moscow as a staging ground for subversion against neighboring states. This would endanger the stability of the region. During the Allende period, large quantities of Soviet arms were illegally brought into the country via Cuba, Chilean and foreign terrorist groups were formed, and the Cuban embassy became the center of subversive KGB activity.

The CIA's support of opposition forces failed in its ultimate purpose of preserving the minimum conditions for peaceful and democratic change. Internal

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disruptions caused or permitted by Allende and the illegal and violent revolutionary forces supporting him — including strikes, massive inflation, and a virtual state of civil war — forced the reluctant military to respond to popular pressure to intervene to prevent full-fledged civil war and to restore order and a semblance of justice. The regrettable excesses, including summary executions and abuse of prisoners, attending the take-over were largely the result of the enormity of the social, economic, and political earthquake wrought by Allende and his followers and the inexperience and ineptitude of the armed forces.

Are the Means Just?

Morality is a discipline of ends and means, but it is in the selection and use of means where the most perplexing problems arise. According to the Western ethics, ends do not justify means. Some means are categorically ruled out. To what extent have CIA covert activities violated the requirements of just and appropriate means? What about the morality of secrecy, deception, and coercion?

Clandestine activities always embrace an element of deception and have certain moral pitfalls for those who engage in them. In principle, lying is wrong. But in adversary situations such as football and war, deception is accepted. During World War II the British attempted to deceive the Germans about the strength of their coastal defense by deploying inflated rubber artillery pieces along the English Channel. The USIA officer in Italy who deceived Communist Party workers into distributing a pamphlet critical of the Soviet Union is another case in point.

In all clandestine activities abroad, deception is essential to provide cover for U.S. officers, to protect cooperating agents, and to gain access to the persons and organizations for collecting intelligence or engaging in political operations. Frequently, of course, the identity of CIA officers is made known to officials of the host government, whether allied or neutral, but this practice is hardly appropriate in an adversary environment.

All cover stories involve deception. How long should a cover story be maintained and for whom? The CIA holds that the cover of the *Glomar Explorer* was blown too soon. The U-2 flights over the Soviet Union present an interesting case. They were known to Moscow a few days after they started, but they remained highly secret in the United States until the plane flown by Powers was brought down in 1960. If the successful U-2 operation would have been reported earlier in the American press, the greatly embarrassed and angered Soviet Union would have been forced to protest, with the probable result that we would have been denied this valuable source of strategic intelligence. During the early years of reconnaissance satellites, both powers collaborated in keeping the secret from the general public on both sides.

The use of coercion or violence always presents serious moral dilemmas, primarily because it confronts the actor with the necessity of weighing the immediate and relatively certain human costs of force or bloodshed against future and uncertain benefits. But it is precisely in this murky realm that the just war theory provides useful guidance, if not clearcut answers.

From what is publically known, covert CIA operations in peacetime rarely involve coercion. Even more rarely do they involve recourse to violence. The Bay of Pigs, as a large-scale paramilitary operation, was a very rare exception. In wartime situations like Laos, the CIA provided covert support to military efforts of the Meo tribesmen to protect their territory against North Vietnamese troops. Assuming the cause to be just, this covert support can be justified, though it could be argued that it should have been provided by the U. S. Army.

The question of violence becomes more complicated in non-war situations in which the codes of acceptable military behavior are not automatically applied. Frequently, the United States has had to face situations in Third World countries in which the government began to pursue foreign policies that endangered the independence of allied or friendly states or otherwise threatened regional peace. To some extent, this was the situation in Cuba under Castro, Indonesia under Sukarno, Egypt under Nasser, the Congo under Lumumba, Ghana under Nkrumah, and Chile under Allende. In the near future, countries like Portugal, Peru, Panama, and Ethiopia may present similar threats.

What should the United States do when a moderate and friendly government is about to be subverted or overthrown by hostile internal forces with or without external support? Or when an existing regime, for whatever reason, engages in hostile behavior short of war toward the United States or its allies? The answer depends on several factors, including the size, power, and location of the country and its capacity to disturb the peace. Portugal, Panama, Brazil, Nigeria, Iran, and Indonesia are obviously of greater significance to the United States than Finland, Paraguay, Chad, or Nepal. Moscow, Peking, and their clients show little inhibition against fishing in troubled waters or in troubling calm waters in the first place.

We could wash our hands of internal turmoil and external dangers in the Third World and leave the situation to chance, chaos, and the Communist powers, but every postwar President, supported by the Congress, has affirmed our responsibility to maintain that minimal degree of interstate stability essential to normal diplomatic intercourse and mutually beneficial economic relations. It should be recalled that President Truman intervened in Greece and Korea for these reasons. The CIA has been called upon to support this basic policy. Occasionally it has used covert operations to prevent an extremist faction from seizing power, to moderate the policies of a regime, or in rare cases to change its leaders.

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Returning to the country independence

According to the press, the CIA was involved in the overthrow of Premier Mossadegh in Iran in 1953 and of the Arbenz regime in Guatemala in 1954. In both instances the United States supported indigenous forces opposed to these pro-Soviet leaders. If the cause of installing a moderate government was itself just, the use of illegal means, involving some violence, can also be justified in principle.

The murky situation in Laos in 1962 presented President John Kennedy with a choice among three unpleasant courses. The 5,000 North Vietnamese troops in Laos in violation of the Geneva accords were being used to support Hanoi's attack against South Vietnam. The President could limit his response to a diplomatic protest, he could send regular U.S. troops into this neutral country, or he could use covert means to deal with the problem. He chose the third course and directed the CIA to provide military support to protect certain areas known to and approved by the Lao government, thus avoiding a direct challenge to Hanoi. This effort grew into a large paramilitary operation and came to be known as a "secret war," but compared to other military efforts in Southeast Asia, it was remarkably successful. The areas of government control remained essentially unchanged during the whole period of CIA involvement and only about a dozen Americans lost their lives.

The Laos experience points to the difficult choices confronting the United States in complex situations where its interests are involved, but where for political and humane reasons it does not want to employ or encourage its allies to employ conventional military force. In such cases, the CIA can sometimes provide, as CIA Director Colby has said, a viable alternative to ineffective diplomatic protest or a risky military action.

Is There A Good Chance For Success?

According to the just war doctrine the cause can be good and the means can be appropriate in principle, but the contemplated action — whether involving coercion or not — cannot be justified unless there is a reasonable chance of success. If the operation is successful, the new situation should provide a better chance for peace, security, and justice than the previous condition.

Moral choice demands calculation — an assessment of multiple causes, multiple means, and multiple consequences. This moral-political calculus should be a continuous process before, during, and after any operation, covert or overt, domestic, or foreign. Ends, means, costs, and consequences should be constantly weighed.

Returning to the Iran case, did the probable benefit of keeping that oil-rich country independent of Soviet control justify the political cost of U.S. support for

the public demonstration that overthrew Mossadegh? How seriously would a Soviet-dominated Iran have jeopardized U.S. and allied interests? It would appear plausible to conclude that the ouster of an unstable and pro-Soviet premier was a cause accomplished by acceptable and proportionate means, when compared to the probable cost in conflict and bloodshed that would likely have resulted from a Soviet take-over of Iran.

The Bay of Pigs operation was a failure precisely because this moral-political calculus was not pursued rigorously enough. The objective was worthy, but the means were inadequate. The means were not intrinsically unjust, but they were unjust in the sense that they were incapable of bringing the operation to a successful conclusion. Because of uncertainty about how Moscow would react, Presidents Eisenhower and Kennedy ruled out an open U.S. invasion to overthrow Castro. Instead, under directives from both Presidents, the CIA trained and equipped Cuban exile units to do the job. The force was probably too small and because of last-minute changes it lacked adequate air support. Two days before the landing the number of air strikes was reduced from 30 to 8 sorties. The effort failed because the means were inadequate. If the moral disciplines had been observed, either there would have been no Bay of Pigs landing or the operation would have been modified to succeed.

In contrast, the CIA contributed to the successful overthrow of the pro-Soviet Arbenz regime in Guatemala seven years before. Again this, like war itself, was an illegal operation. A full-fledged Soviet client in Central America could have become a source of instability. Guatemala could have become a staging ground for guerrilla forays against neighboring countries or a launching pad for nuclear missiles aimed at the United States, as the later experience of Cuba demonstrated. The just U.S. intention in Guatemala was supported by appropriate means and it had a successful result. In retrospect, it would appear that the benefits to peace in the area amply justified the methods employed, including the political cost of U.S. intervention.

Indonesia provides examples of both poor U.S. calculation and an unplanned and unexpected opportunity for covert activity. In the late 1950s President Sukarno fell increasingly under the political and military influence of Moscow. On return from a trip to the Soviet Union in February 1957, Sukarno declared parliamentary democracy in Indonesia a failure and assumed near-dictatorial powers under a new system he called "guided democracy." His foreign policy continued to be expansionist. For years he sought to take over West Irian by diplomatic pressure and military force. He was later to inaugurate his military conquest against the eastern provinces of Malaysia.

Many Indonesian political leaders shared Washington's apprehensions about

Sukarno's international Revolutionary Council whole of Indonesia Sumatra and the responded with support for the recruited American their popular support deal with the situation CIA officers in Indonesia miscalculations and new government abroad.

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Sukarno's internal and external policies. On February 15, 1958, an anti-Sukarno Revolutionary Council in oil-rich Sumatra proclaimed a new government for the whole of Indonesia. On March 12, Jakarta announced a paratroop invasion of Sumatra and the rebels formally appealed for American arms. The United States responded with covert military assistance through the CIA, including modest air support for the rebels. U.S. involvement became known because a CIA-recruited American flier was captured by Jakarta. The rebel leaders overestimated their popular support and underestimated the capacity of the Jakarta regime to deal with the situation. The revolt was quickly crushed. U.S. officials, including CIA officers in Indonesia, based American support for the rebels on the same miscalculations and must, therefore, share responsibility for the failure to install a new government which was expected to pursue moderate policies at home and abroad.

By 1965, the Sukarno regime had virtually become a captive of the Indonesian Communist Party which decided that year to consolidate its already strong position by neutralizing Indonesia's pro-West army. Though the plotters killed five of the seven top army generals, they failed to accomplish their objective. In the ensuing confusion the anti-Sukarno and anti-Communist leaders who emerged asked experienced CIA officers and U.S. military advisers to assist them in restoring order and establishing a viable government. They came to CIA officers for help only because the leaders and officers had developed a relationship of trust over a period of time.

Such close relationships, however, can lead to miscalculations if the CIA officers become too emotionally identified with the cause of the local leaders or fail to recognize that there may be significant differences between their goals and U.S. objectives. Miscalculations in the field are usually corrected by checks within the system, including the requirement that all covert operations must be analyzed in Washington and authorized before they are carried out.

Only in the most dangerous situations should Washington become involved in a violent overthrow of an existing regime. There have been such situations and there may be again in which U.S. support for a military coup, or less drastic action, can be justified to prevent a serious threat to peace and security from coming to a head. Portugal today may be such a case. As James Reston pointed out, Moscow is waging "with vengeance" an "undercover war" in Portugal "while the CIA is virtually helpless in its present condition to prevent the subversion of that strategically important country."³ If the Soviet-supported Communist Party efforts to take over the Armed Forces Movement in Lisbon succeed,

³ *New York Times*, March 16, 1975.

Portugal could not remain in the NATO Alliance and the United States would lose its military base in the Azores. At an earlier stage, a little U.S. moral support and perhaps a bit of material aid for the democratic forces in Portugal might have been enough to turn the tide. But now, more vigorous support for democratic elements can be justified.

The United States cannot effectively compete by Marquis of Queensbury rules while our adversaries trample Western values and laugh at our moral hang-ups. Former Secretary of State Henry L. Stimson is quoted as saying: "Gentlemen don't read other gentlemen's mail." This is a high ideal for politics, but it is neither prudent nor just for us to try to live by it in the international arena if our adversary is not a gentleman and if his violations of the rules go far beyond reading our mail. We Americans cannot permit our moral fastidiousness to subvert our political responsibility.

Effective covert activity in Portugal or the Middle East now may pay off well in preventing a great deal of suffering later. A low-grade cold war is far preferable to an all-out hot war. Our capitulation to a series of small thrusts against our interests may lead to the big confrontation nobody wants. The CIA is one important weapon in our larger arsenal designed to prevent nuclear war and nuclear blackmail. Though we should always recognize that our best calculations may come back to haunt us, we must not permit this recognition to rob us of our capacity to act.

CONCLUSIONS AND RECOMMENDATIONS

The theme of the last volume of Sir Winston Churchill's monumental study, *The Second World War*, carries a warning which is just as valid today as it was in 1953 when it was written: "How the Great Democracies Triumphed, and so Were able to Resume the Follies Which Had so Nearly Cost Them Their Life."¹

In the uncertain world bequeathed by the tragedy of Vietnam, the United States is being severely tested. Our friends abroad are worried that we may return to the folly of an earlier isolationism and our adversaries fervently hope we do. Our allies, especially in Asia, wonder if they can depend on us to keep our commitments and our enemies are acting as though our determination to do so has already been seriously eroded.

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¹ Winston S. Churchill, *Triumph and Tragedy*, Volume 6, Boston, 1953, p. ix.

² *Washington Post*, N

³ *New York Times*, N

necessary in the wake of the Vietnam trauma to warn the Soviet Union about its eagerness to "exploit strategic opportunities" and to exacerbate conflict in "peripheral areas," insisting that the United States is determined to resist such pressures.² In the same speech, he urged America to end its "self-doubt and self-punishment" and resume its role of leadership in the world. Just because we have failed in Vietnam, he said, does not mean that we should "flee from responsibility as uncritically as we rushed into commitment a decade ago."

Vital Need for U.S. Intelligence

The international drama and our views about our role in it are changing, but the United States is still a nuclear superpower with heavy and unique responsibilities in a dangerous world. We cannot escape with honor the disciplines of maintaining our own national security and helping our allies to maintain theirs. In this double task, intelligence and occasional covert political operations are essential supplements to our military, diplomatic, and economic policies. As a *New York Times* editorial put it: "To deprive a major world power of up-to-date information concerning its potential adversaries would increase rather than diminish the risk of international stability and conflict. The United States cannot afford to walk blindly through a world divided by clashing interests, aspirations, and suspicions."³

The most severe critics of the CIA are not really against the agency as much as the policies it serves. They are particularly critical of covert activities because these activities support persons, institutions, and parties they regard as enemies of the progressive and revolutionary forces they hope will prevail. The radical critics are using the CIA as a foil to attack U.S. policy in the Third World. Would it not be more honest if they criticized the policies directly and openly, rather than trying to discredit them by attempting to destroy or cripple one of the instruments for carrying them out?

The Lesser of Two Evils

Returning to the question of morality, we must recognize that all war is evil, but that in certain situations a particular war can be just — it can be the lesser of two evils. It is morally just for a state to fight an invader rather than submit to him, if the state has a good chance of prevailing. The classical requirement of the "just war" theory can and should be applied to foreign intelligence and covert operations in peacetime too, because they, like diplomacy itself, are extensions of

² *Washington Post*, May 13, 1975.

³ *New York Times*, April 2, 1975.

war by other means. There is no clear dividing line between war and peace, and all foreign policy programs of a democratic state should meet the three criteria of the just war — the objectives must be just, the means must be just and appropriate, and there should be a good chance of success. So measured, it is reasonable to conclude that by and large the CIA has met these criteria.

Our analysis also suggests that the CIA has served U.S. national security and foreign policy interests without violating the constitutional rights of American citizens or damaging our democratic institutions. Again, there have been a few Watergate-related exceptions, but available evidence indicates that the outcry against "massive domestic surveillance" has turned out to be a tempest in a teapot.

If our foreign policy objectives have been wrongly defined, the CIA and other agencies can perhaps be faulted for supporting them, but that is their duty as instruments of Presidential policy backed by the Congress. Under our political system the President is responsible for foreign policy and he should be held accountable. If, however, the CIA has been unresponsive to the Presidential will or insubordinate, it should be faulted. Public evidence suggests that this has not been the case.

It should be emphasized that the validity of U.S. foreign policies or supporting programs must be judged by the requirements of our national interest, the severe limits imposed by external circumstances, available resources, and the criteria of the just war. Policies cannot be justified or condemned by the instruments used to pursue them, but only by the fundamental intentions of the government and the consequences which flow from them. Instruments — whether the CIA, USIA, or AID — can advance policy objectives when rightly employed and can subvert policy goals by inefficiency, stupidity, or corruption. The occasional manifestation of one or more of these vices does not, however, invalidate the instrument.

Congress and Political Control

U.S. agencies are accountable to the President and the Congress and through them to the American people. Observers see the CIA accountability problem in different ways. Those who believe that the CIA has somehow got out of control recommend tighter and more comprehensive Congressional oversight procedures. The present inquiry rejects this conclusion and holds the view that the present oversight arrangements are adequate.

Whether the oversight procedures remain the same, or are entrusted to a new joint committee or committees, each Representative and Senator involved has a solemn obligation to examine seriously the aims, objectives, and problems, as well as the budget of the CIA. If the arrangement is adequately safeguarded

against unauthorized disclosure of the CIA director, and methods. Mr. [unclear] oversight committee added: "I have made it a point to take to volunteer testimony to Congress." CIA officers and committees, both in public and private.

It should be recalled that the CIA is an administrative control agency. Consider the case of the CIA director is appointed by the President. If the President is removed, the Congress can remove him. He can be retired at the age of 65.

Within the Executive branch, the CIA is one of the few agencies whose activities are also reviewed by the State Department. The State Department has a right of review over the CIA's foreign policy.

Further, the four major agencies — the CIA, USIA, AID, and the State Department — all play through a common channel. They should attempt to coordinate their activities for that matter. The choice for director of the CIA is made by the President after consultation with the Senate. The investigation of the CIA is also a joint effort of the Congress and the President.

The CIA is also a part of the American people's life. It is a cross section of American society. It is an administrative control agency. It is a sprinkling of knavery. In short, the remarks of the American people's representatives and agencies will remain the same. The media have spoken.

The primary problem is not control, but rather the lack of control.

⁴ *New York Times*, Jan. 1, 1975.

against unauthorized disclosures, each member has a right to expect candor from the CIA director, consistent with his legal obligation to protect agents, sources, and methods. Mr. Colby has promised as much: "There are no secrets from these oversight committees" and we "are in continuing contact with the staffs."⁴ He added: "I have more than a duty to respond to these committees; I must undertake to volunteer to them all matters which are of possible interest to the Congress." CIA officers have also frequently reported to other Congressional committees, both in public and executive session.

It should be recognized that there is a wide spectrum of political, legal, and administrative controls that have effectively kept the CIA faithful to its assigned duties. Consider the elaborate system of checks and balances. First, the CIA director is appointed by the President, who is directly accountable to the American people. If the President misuses the CIA, this will inevitably become known and the Congress can take corrective action. In an extreme situation, the President can be retired at the next election or, as we have seen, before.

Within the Executive Branch, the CIA is accountable to a series of NSC committees, including the Forty Committee on which sit ranking representatives of the State Department, Defense Department, and the Joint Chiefs of Staff. CIA activities are also reviewed by the President's Foreign Intelligence Advisory Board. The State Department must approve all covert political operations.

Further, the four Congressional oversight committees have a continuing role to play through advice and consent, though there is no way Congress can or should attempt to oversee or run day-by-day operations of the CIA, or any other agency for that matter. The Congress approves or disapproves of the President's choice for director. And the Congress may, as it has in 1975, launch a thorough investigation of the intelligence community.

The CIA is also kept responsive to the security needs and moral values of the American people because its top leadership and its ranks represent both a broad cross section of American life and opinion and a rich variety of skills. The internal administrative controls are reasonably effective in keeping a firm rein on the sprinkling of knaves and fools who seem to find their way into every organization. In short, the remarkably resilient American political system and the good sense of the American people provide the ultimate guarantee that our government and its agencies will remain responsible and responsive. In this system the Congress and the media have special obligations.

The primary problem faced by Congress is not a CIA that has got out of control, but rather that an unchecked attack against the CIA will damage the Presi-

⁴ *New York Times*, January 16, 1975.

dent's capacity to defend the interests of America and her allies. We are confronted by an unsavory mixture of malicious charges, unfounded attacks, and honest concern and a climate of confusion sponsored by elements of the media. President Ford has properly warned that "a sensationalized public debate over legitimate intelligence activities" would be "a disservice to this nation and a threat to our intelligence system," adding: "Any investigation must be conducted with maximum discretion and dispatch to avoid crippling a vital national institution."⁵

To meet the legitimate need for Congress to be informed of CIA activities and to prevent unauthorized disclosures of sensitive information, I offer five suggestions for consideration.

1. Congress should amend the 1947 act creating the CIA to make it clear that the jurisdiction of the agency is confined solely to the collection and evaluation of *foreign* intelligence and associated activities. The intelligence gathering function and covert political operations should remain within the CIA.

2. New legislation should be enacted to deter unauthorized disclosures of sensitive and classified information by present or former government employees or by members of Congress. Our First Amendment would make it difficult for us to pass a law similar to the British Official Secrets Act which provides criminal penalties for any person (official, member of Parliament, or ordinary citizen) who transmits "any official document issued for his use alone" to an unauthorized person. Ironically, as Mr. Colby points out, there are effective U.S. "criminal penalties ... for the unauthorized disclosure of an income tax return, patent information, or crop statistics."⁶ But not for sensitive national security documents or their contents! The law proposed here would provide for criminal prosecution against any ex-CIA officers who violate their secrecy pledge by transmitting classified data to the press or other unauthorized parties. It would also apply to all other government employees who have made secrecy pledges. Effectively administered, such a law would tend to dry up leaks to the press at the source. In the absence of measures along this line, there will be increasing pressure to enact something like the British Official Secrets Act which could subject both the offending official and the press to criminal sanctions.

3. The present Congressional oversight procedure for reviewing the CIA and other elements in the intelligence community should be continued or replaced by a similar arrangement involving approximately 12 members, six from the House

⁵ From the President's State of the World address, *New York Times*, April 11, 1975. See also: Charles J. V. Murphy, "Uncloaking the CIA," *Fortune*, June 1975. This article contends that the "investigative hysteria in Washington" endangers U.S. security.

⁶ *New York Times*, January 16, 1975.

and six from the Senate. The Senate Intelligence Committee should have the authority to conduct thorough examinations of CIA activities and the leaders of the agency.

Each staff member should have a security clearance "which he needs to perform his duties" which he needs to perform his duties. Select Committee members should be required to undergo a security clearance to any unauthorized disclosure of information or to any unauthorized disclosure of information or to any unauthorized disclosure of information.

Further, appropriate legislation should be enacted to determine if it would be in the national security interest to require a pledge, such as the one required by the British Official Secrets Act.

4. The 1974 Ryan Act (Public Law 93-662) should be repealed and replaced by a new act which would prohibit any unauthorized disclosure of information by any person who has received information from the AID bill appropriations to six Congressional committees. This requirement is to be amended to require that any breach of the act be reported to Congress and that Congress be given the authority to take appropriate action if the breach is not adequately cared for.

5. The new act should be repealed and replaced by a new act which would require that any requested data which is not in the public domain be provided for the public. Whatever the result, the CIA should be held accountable for its actions.

⁷ Rowland Evans and Novack, *Washington Post*, January 22, 1975.

and six from the Senate. The most efficient system would be a Joint Committee on Intelligence, including two members each from the appropriations, foreign affairs, and armed services committees in each chamber. This would eliminate the need for four separate hearings under the present plan and allow for a more thorough examination of CIA activity. Each member of this joint committee should have the approval of the chairman of each of the six parent committees and the leaders of both houses to insure maximum reliability and discretion.

Each staff member of the oversight committee or committees should have a security clearance "commensurate with the sensitivity of the classified information" which he needs to handle; to quote Senate Resolution 21 which created the Select Committee on Intelligence on January 27, 1975. Each staff member should be required to sign a pledge that he will not transmit classified information to any unauthorized person and that he will not "accept any honorarium, royalty or other payment," again, to quote Resolution 21, for any information gained in connection with his committee work.

Further, appropriate Congressional committees should undertake a study to determine if it would be desirable for members of committees dealing with sensitive national security information to undergo a security clearance and to sign a pledge, such as the one now required by the staff.

4. The 1974 Ryan amendment to the Foreign Assistance Act (Part III, Section 662) should be repealed to minimize the chances of security leaks and Congressional meddling in day-to-day CIA operations. This non-germane appendage to the AID bill appears to require the President to report all covert political operations to six Congressional committees with a total of about 150 members. Since this requirement would greatly increase the chances of leaks, the effect of the amendment is to paralyze CIA political activity. As two journalists put it: the amendment forces the President "to risk virtually uncontrollable security breaches by hostile members of Congress."⁷ If the intent of the amendment is to give Congress the opportunity to review covert activities, that intent is already adequately cared for in the present or here proposed oversight arrangements.

5. The new amendments to the Freedom of Information Act passed in 1974 should be repealed. The amendments require that any agency hand over the requested data within ten working days or give an explanation of why it cannot, and provide for elaborate appeal and judicial procedures to protect the requester. Whatever their intent, the new amendments place a potentially heavy burden on the CIA and give critics a ready instrument to harass the agency. The

⁷ Rowland Evans and Robert Novak, "Congressional Straightjacket for the CIA," *Washington Post*, January 22, 1975.

process of harassment has already begun. Even more serious, the amendments turn over to the courts the authority to declassify national security documents.

Responsibilities of the Media

Turning from Capitol Hill to the Fourth Estate, it is pertinent to emphasize the power of the mass media, particularly television, in a society where the government does not own or control a single newspaper or broadcasting station. Abraham Lincoln underscored the influence of those who mold popular opinion: "With public sentiment, nothing can fail; without it nothing can succeed. Consequently, he who molds public sentiment goes deeper than he who enacts statutes or pronounces decisions."⁸

The press plays an essential watchdog function in our political system. The people must be ever alert to the abuses of power by the government and the abuse of information by the press. By deciding what stories should have page-one attention and how to slant them, major newspapers, wire services, and networks have a great influence in setting the national agenda, determining the parameters of debate, and limiting policy options.

Major sectors of the media have performed less than responsibly in reporting and commenting on the current CIA debate. They have sensationalized and given credence to unsupported charges against the agency. The *New York Times* has been a major offender by publishing as hard news what Hanson W. Baldwin has called "exaggerated, inaccurate or irresponsible" stories.⁹ The *Times* and other media have acted as though they were above the law by arrogating to themselves the decision of whether the disclosure of certain classified information would or would not harm the national interest. This responsibility rests with the democratically elected representatives of the people, not with any self-appointed élite.

Hardcore critics of the CIA in Congress and the media are united in their insistence on substituting their private judgment on highly complex matters for the whole political process rooted in the rule of law. A classic example is the Glomar Explorer story which Mr. Baldwin described as one of "the most damaging and irresponsible leaks" in U.S. intelligence history when "the media, in the name of freedom damaged the defense of freedom."¹⁰ Walter Cronkite of CBS News on the other hand said "I don't think the press should have held the story", in spite of the Government's request to do so.¹¹

⁸ Lincoln's debate in Ottawa, Illinois, August 21, 1858.

⁹ *New York Times*, May 8, 1975.

¹⁰ *Ibid.*

¹¹ *Washington Star*, April 20, 1975.

The *Times* seems published top secret, refused to give Congress, violated their contract. *Times* justified its refusal to release information on a confidential statement of British intelligence of us at some time since it, but let none of us speak with one voice, intelligence service"

Times reporter, Hanson and the rest of the

A major part of straight news — a printed press. Unfortunately about it, except to report those sectors of broadcast journalism enforce the requirements

There is an even media to give more real dangers confronting the military establishment on exposing the damage against. This discomfort to our advantage, a distorted picture with them.

The minimum of the annual conference suppressed... But I not of intelligence,

¹² *Washington Post*, Jan.

¹³ *Wall Street Journal*,

¹⁴ C. L. Sulzberger, "I

¹⁵ Harrison E. Salisbury

¹⁶ See Ernest W. Lefevre 1974, especially pp. 1-20.

¹⁷ *New York Times*, Ap

The *Times* seems to follow a split-level ethic on the question of secrecy. It freely published top secret documents taken from the Defense Department, but has refused to give Congress or the U.S. government the names of CIA employees who violated their contract by giving classified information to Seymour Hersh. The *Times* justified its refusal to assist the government by saying that it received the information on a confidential basis.¹² This dual ethic recalls a morally refreshing statement of British Foreign Secretary James Callaghan: "Let us be honest. All of us at some time seem to apply double standards. None of us should be proud of it, but let none of us be ashamed to admit it."¹³ The *Times*, of course, does not speak with one voice. C. L. Sulzberger has warned that efforts "to cripple our intelligence service" will let "the Soviet KGB move into the vacuum."¹⁴ Former *Times* reporter, Harrison E. Salisbury says the "CIA not only cons the public and the rest of the government — it cons itself."¹⁵

A major part of the problem is advocacy journalism in the guise of presenting straight news — a malady that afflicts network radio and TV as well as the printed press. Unfortunately, there is little the government or the public can do about it, except to plead for the media to be more fair and accurate and to support those sectors of the media that perform more responsibly. In the case of broadcast journalism, we can urge the Federal Communications Commission to enforce the requirements of the Fairness Doctrine.¹⁶

There is an even deeper problem — the tendency of influential voices in the media to give more attention to the alleged abuses of American power than to the real dangers confronting the United States. They seem more intent on attacking the military establishment, the civil police, and the intelligence community than on exposing the dangers these instruments of security are designed to protect us against. This disquieting bias in the press, regardless of motivation, gives aid and comfort to our adversaries at home and abroad by providing the American public a distorted picture of the dangers we face and the measures essential to cope with them.

The minimum we should expect of the media is what Mr. Colby requested at the annual conference of the Associated Press: "I do not ask that 'bad secrets' be suppressed... But I do make a plea that 'good secrets' be respected, in the interests not of intelligence, but of our nation."¹⁷ As President Ford said, "a sensational-

¹² *Washington Post*, January 9, 1975.

¹³ *Wall Street Journal*, April 9, 1975.

¹⁴ C. L. Sulzberger, "The Superpower Cop-out," *New York Times*, April 6, 1975.

¹⁵ Harrison E. Salisbury, "The Gentlemen Killers of the CIA," *Penthouse*, May 1975, p. 53.

¹⁶ See Ernest W. L. Jevier, *TV and National Defense: An Analysis of CBS News, 1972-1973*, Boston, Virginia, 1974, especially pp. 1-20 and 149-67.

¹⁷ *New York Times*, April 8, 1975.

ized public debate" on the CIA would "tie our hands while our potential enemies operate with secrecy, skill, and vast resources."¹⁸

The present debate about the CIA is only one aspect of a larger foreign policy crisis brought on by the burdens of American power and increasing uncertainty about how to exercise our power and influence in the face of new dangers and opportunities. If we lose confidence in our Western values and permit the institutions designed to defend us to be eroded, whether through self-hate or moral fastidiousness, we can be certain that the determined enemies of freedom will take full advantage of our self-inflicted wounds and moral paralysis.

¹⁸ *New York Times*, April 11, 1975.

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Sunday, October 26, 1975

The Washington Star H-5

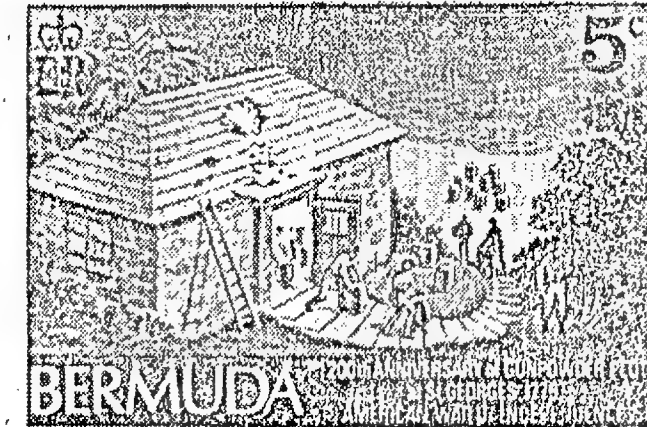
Bermuda's Gunpowder Plot

Bermuda's early aid to the American Revolution will be noted tomorrow by the issuance of four stamps marking the 200th anniversary of the "Gunpowder Plot."

In the summer of 1775 Gen. Washington's army around Boston desperately needed powder. Bermuda, its trade with the American colonies prohibited by royal decree, was running short of food. A quiet deal was made.

On the night of Aug. 14, 1775, a band of Bermudians sympathetic to the American cause broke through the roof of the Royal Magazine on the grounds of the governor's mansion at St. George's and rolled 100 barrels of gunpowder down to the shore of Tobacco Bay where they were placed on whaleboats and rowed to two American ships waiting beyond the coral reefs.

When the governor sought Bermudian ships and sailors the next morning to pursue the American



vessels he found no volunteers. The participants in the plot were never prosecuted.

On Sept. 6 Gen. Washington wrote to the people of Bermuda assuring them that not only would they be supplied with provisions "but experience every other mark of affection and friendship which the grateful citizens of a free country can bestow." The Continental Congress arranged for

the shipment of a year's supply of food to Bermuda.

The four stamps, in denominations of 5, 17, 20 and 25 cents, picture the break-in at the magazine, the whaleboats heading for shore and carrying off the gunpowder, and the scene on the beach.

John Cooter's designs were lithographed by John Waddington Ltd. of Leeds, England. There is also a souvenir sheet including all four stamps at 75 cents.

BEACH, Moses Yale; publisher, inventor; b. Springfield, Mass., Oct. 5, 1822; s. Moses Sperry and Lucretia (Stanley) B.; m. Nancy Day, Nov. 19, 1819; children--Moses Sperry, Alfred Ely; apprentice cabinet maker, Hartford, Conn., 1814-18; developed engine using power of gunpowder explosions, 1819; partner in cabinet mfg. bus., 1819-c. 1828; invented rag cutting machine, c. 1826; part owner paper mill, Saugerties, N. Y., 1829-34; part owner N. Y. Sun (a leading "penny paper" in NYC), 1834-38; owner, publisher N. Y. Sun, 1838-48, increased circulation to 38,000 in 1843 by such devices as the 1844 "Balloon Hoax," quick reporting of news through such methods as ship news service, special trains and horse expresses; established N. Y. Associated Press (with other NYC newspaper publishers) to gather news in all major cities in nation during Mexican War; appointed by President Polk as special agent in Mexico, 1846; 1st publisher to used syndicated newspaper articles (1841), to publish foreign edition (1848); publisher Weekly Sun (for farmers), Illustrated Sun and Monthly Literary Journal. Died Wallingford, July 19, 1868, buried Wallingford.

MISSION TO MEXICO

(Cond. from Wriston's "Executive Agents...")

War with Mexico had broken out, and President Polk had in mind its termination almost before hostilities were fairly started. Moses Y. Beach went to Mexico not as an avowed agent, but under positive injunction:

"never to give the slightest intimation, directly or indirectly, that you are an agent of this government,"

except under very special circumstances when it might "smooth the way to peace."

He made every effort to keep his connection with the American government concealed, travelling, for instance, on a British passport, but even so did not arrive without suspicion being cast upon him.

President Polk's diary noted that Beach was intending to visit Mexico on private business and believed that he could exert a favorable influence on General Almonte and other leading men of Mexico. Beach's letter of instruction stated that the object of constituting him as a secret agent was that he might collect and furnish useful information to his government, but Polk also had hopes that Beach would "misconstrue" his authority and negotiate a truce.

ENGLISH, George Bethune; adventurer; b. Cambridge, Mass., Mar. 7, 1787; s. Thomas and Penelope (Bethune) E.; grad. Harvard, 1807, M.A. Harvard Divinity School; rural newspaper editor; mem. New Harmony community; apptd. 1st Lt. U.S. Marines, sent to Mediterranean; resigned commission at Alexandria, became Muslim officer in Turkish Army; served under Ismail Ali (son of Pasha of Egypt) in campaigns in Sudan, 1820-21; returned to U.S.; appointed U.S. secret agent to discover Ottoman attitude to possible commercial treaty allowing U.S. ships to trade in Black Sea, conducted these preliminaries, 1823-26, finally failed; was left broke, unemployed and distrusted. Author of two books. Died, Washington, D.C., Sept. 20, 1828

MISSION TO TURKEY
(Cond. from Wriston's "Executive Agents...")

Practically all approaches to Turkey, between 1820 and the final negotiation of a treaty, were made through secret agents. George B. English, who was sent in 1823, was overjoyed at getting a copy of the Turkish treaty with France "quietly and without observation," and refrained from attempting to get certain others because such an attempt would "rouse suspicion."

His dealings with the Turkish grand admiral were all cloaked in profound secrecy. He wore "an oriental dress" and sought to be regarded by the Turks as "an American Mussulman who had come from a far distant country to visit the capital of Islam."

English, indeed, comes as close as any special agent to the popular conception of a diplomatic spy--disguise and all!

GREEN, Duff, businessman, b. Woodford County, Ky, Aug. 15, 1791, s. William and Lucy (Marshall) G.; m. Lucretia Edwards, Nov. 26, 1813; 11 children, including Benjamin Edwards Green (see mission of). Served from pvt. to capt. in War of 1812; engaged in land speculation and ventures in Mo. after the war; established the first stage coach line West of the Mississippi; admitted to Mo. bar; brig. gen. 1st Mo. brigade; mem. Mo. Constitutional Convention; member, Mo. Legislature 1823; became owner of St. Louis Enquirer, 1823; became owner-editor of U.S. Telegraph, Washington, 1825; mem. of Jackson's kitchen cabinet 1828-32; printer to Congress, 1827-33; founded Balt. Pilot, 1840; unofficial rep. of U.S. in Eng. and Fr., 1840-44; estab. The Republic, N.Y., 1844; apptd. consul to Galveston, Tex. by Tyler; unsuccessfully attempted to maneuver U.S. Govt. into acquiring Texas, N.M. and Calif., c. 1844; founded the Reformer, 1857; built portion of East Tenn. & Ga. R.R.; organized Sabine & Rio Grande R.R.; and Selma, Rome & Dalton R.R., others; organized numerous business firms including Union Potomac Co., Va., The Union Co., Md., Amer. Land Co., Md., Jonesboro Iron Works, Tenn., The Planters Ins. Trust & Loan Co., Ga; The Md. Industrial Agency; operated iron plants for the Confederacy during Civil War; acted as advisor on fiscal and foreign policy to Confederate leaders during the Civil War; founded Dalton, Va.; aided in industrial recovery of South after Civil War; author of several books on fiscal policy; died Dalton, Va. June 10, 1875

MISSION TO ENGLAND

(Condensed from "Executive Agents in American Foreign Relations," by Henry Merritt Wriston; Baltimore, 1929, Johns Hopkins Press; reprinted Gloucester, Mass., Peter Smith, 1967)

There are, of course, different kinds and degrees of secrecy. A mission may be secret in the sense that the purpose for which a man is sent is kept from the jurisdiction into which he is sent; his work may be known only to the government to which he is despatched; or his work may be quite open and the secrecy may consist of concealing his connection with the American Government. It was this last type of secrecy which attended Duff Green's mission to England in 1843. His presence in England was very conspicuous, for he wrote letters to the Times over his own signature, and he talked to leading men of the Peel ministry and the opposition about matters which concerned the relations of Great Britain and the United States. But, every effort was made to conceal his connection with the Tyler administration. When a letter from him was used as the basis of an instruction to William S. Murphy, Minister to Texas, Green's identity and his position as agent were concealed under the phrase, "a private letter from a citizen of Maryland, then in London."

The Senate displayed a good deal of curiosity about the identity of the citizen of Maryland. Benton introduced a resolution to have the individual summoned to the bar of the Senate. On May 28, 1844, Secretary of State John C. Calhoun (former vice president of the United States), who must have been in possession of the facts, appealed to the "files" and reported that "after diligent inquiry, no letter

of the character referred to can be found on the files of this department, nor any evidence that such has ever been placed on them." He was "unable to ascertain the name of the writer in question from any documents in the possession of the department"; he presumed "that the letter...being 'private' is amongst the private papers of the late Mr. (Abel Parker) Upshur."

A second attempt was made by the Senate, when by resolution of June 7, 1844, it inquired "whether Mr. Duff Green was employed by the executive government in Europe during the year 1843." Secretary of State Calhoun again appealed to the mute files and reported that there was "no communication whatever, either to or from Mr. Green, in relation to the annexation of Texas, to be found in the files of the Department."

Both of Calhoun's replies probably were truthful, but they were not the whole truth; they were designed to conceal the facts for which the Senate was seeking.

It was not to be balked. By resolution adopted in executive session, June 12, 1844, the Senate inquired of President Tyler whether Duff Green had received any money "out of the Treasury of the United States, or out of the contingent fund for foreign intercourse, for services rendered since the 4th day of March 1841." President Tyler replied June 17, and made a virtue of his necessities by declaring that:

"although the contingent fund for foreign intercourse has for all time been placed at the disposal of the President, to be expended for the purposes contemplated by the fund without any requisition upon him for disclosure of the names of persons employed by him, the objects of their employment, or the amount paid to any particular persons, and although such disclosures might in many cases disappoint the objects contemplated by the appropriation of that fund, yet in this particular instance I feel no desire to withhold the fact that Mr. Duff Green was employed by the Executive to collect such information, from private or other sources, as was deemed important to assist the Executive in undertaking a negotiation then contemplated, but afterwards abandoned."

There is an element of humor in the bland statement that he had no hesitation in telling what the Senate had for months been trying to find out, and what the Secretary of State had shown a great deal of ingenuity in concealing. The motives for all this secrecy are transparent. It would have made trouble with Edward Everett, behind whose back Green had been working. It would have lent color to the charge of a "plot" in the effort to annex Texas. It was kept secret as long as possible. Meanwhile, the situation had altered. The proposed free trade treaty with England had been abandoned, and the Senate had rejected the treaty for the annexation of Texas. Only when no particular damage could come from the revelation was Green's agency admitted. Even then the administration did not identify him with the "citizen of Maryland", admitting only his employment, not his authorship of the letter in question.

Green, while on his mission to England, had not only discussed relations between the United States and Great Britain with Peel and the members of his ministry, but went over matters with Lord John Russell, the leader of the opposition, of whom he had more hopes, and whom he expected to see soon in power. He also wrote a series of letters to the Times, and in other ways engaged in attempts to discover an

to discover and to mould opinion. His work was such as would be quite improper for a minister to undertake. And, the role that he was designed to play is fairly evident from the use that was made of his reports. One of them was made the basis of the move for the very prompt annexation of Texas, the ground being that Great Britain had antislavery designs on foot. Reports from the regular minister, Edward Everett, were by no means as alarming in character and would not have served the same purpose at all. Without going to the length that Benton did in charging a great plot, there is enough evidence, both in the incidents connected with Green's sojourn in London, and his later activities in Galveston, to make it very reasonable to suppose he was sent to England to do work which the regular minister, Everett, would probably not do as sympathetically.

MISSION TO TEXAS

In 1859 there was trouble on the Mexican border. It grew out of the activities of one Cortinas, a Mexican, apparently of American citizenship. A private grievance became a public one through the action of the courts, and he finally took matters into his own hands, --attacked and destroyed the jail in Brownsville, liberating prisoners and killing those who offered opposition. After this exploit, he became the hero and leader of discontented Mexicans in Texas, of whom there were many, and others came from across the border to join him. Reports which came to Washington were neither full nor enlightening, but they convinced the Buchanan administration that there was a serious situation on the border, which, so it seemed at that distance, was due to incursions into Texas by armed parties from Mexico. Troops had been sent to Brownsville, but from lack of accurate knowledge, Buchanan was "at a loss to judge what further measures may be necessary for the protection of our citizens." All sorts of rumors were afloat; for example, that it was part of a movement to conquer a part of Texas and unite it to Mexico, that it was connected with the struggle between Miramon and Juarez for the control of Mexico, that it was simply a band of lawless desperadoes and banditti bent on plunder.

To clear up the many questions and establish a basis for policy, Duff Green was selected. He was very widely acquainted in the region, he had railroad interests which would furnish the ostensible reason for going; he was experienced and used to secrecy. He was despatched, therefore, secretly, and his instructions enjoined secrecy upon him both in regard to his appointment and its object. "It is in the character of a private citizen that you will best be enabled to reach the true state of affairs and avoid the impositions of interested and designing men on both sides of the line. This confidence cannot be too seriously impressed upon you, both as regards your intercourse here and in the region whither you are destined." (Letter from Secretary of State Lewis Cass to Green, Nov. 18, 1859.)

LARKIN, Thomas Oliver; businessman; b. Charlestown, Mass., Sept. 16, 1802; s. Capt. Thomas Oliver and Ann (Rogers) L.; m. Rachel (Hobson) Holmes, June 10, 1833; went to Monterey, Cal., 1832, engaged in trading and land speculation; U.S. Consul to Cal., 1844-48; U.S. Confidential Agent, 1846-48; naval storekeeper, 1847-48; navy agt. 1847-49; mem. Calif. State Constitutional Convention, 1849; engaged in business until 1858. Died Oct. 27, 1858.

MISSION IN CALIFORNIA

(Cond. from Wriston's 'Executive Agents...')

As the relations of the United States and Mexico became more and more strained, and the signs multiplied that war was likely to come, President Polk became more and more anxious about California. The desire to possess California was by no means new; nor was the fear that Great Britain or some other power would get it. As war approached, it seemed not impossible that Mexico would cede the province to Great Britain. This fear was heightened by a report from the American consul at Monterey, Thomas O. Larkin, dated July 10, 1845, which asserted that England had such designs. During the previous month, a report from a secret agent in Texas had also given explicit warning: "Look well to one probable result if Mexico declares war. Before the fact is known, she will have transferred to England, California and the Bay of San Francisco. The agent in Texas, Charles A. Wickliffe, noted: "The argument for this act will be the utter impossibility on the part of Mexico to defend it or prevent its falling into the hands of the United States. To obtain this transfer even upon a secret engagement to restore it (which will never be complied with) I have no doubt that all which English diplomacy can do will be done to provoke a war between the United States and Mexico."

Polk faced the question as to what practical steps could be taken to forestall British or French aggression without involving the United States in war. His decision was characteristic, he decided to use secret agents. The first was already on the ground, Thomas O. Larkin. He combined in that one individual the office of consul and an employment as secret agent.

The instructions to Larkin noted, first, "the interests of our commerce and our whale fisheries demand that you should exert the greatest vigilance in discovering and defeating any attempt which may be made by foreign governments to acquire a control over that country." He instructed Larkin that "the system of colonization of foreign monarchies on the North American continent must and will be resisted by the United States," and noted that "Great Britain, by the acquisition of California would sow the seeds of future war and disaster..."

Perfect confidence was felt that, as soon as it was ripe, political gravity would drop California into the lap of the United States. No pressure was to be put on California; it was to have no clandestine aid. "In the contest between Mexico and California, we can take no part, unless the former should commence hostilities against the United States; but should California assert and maintain her independence, we shall render her all the kind offices in our power, as a sister Republic. This Government has no ambitious aspirations to gratify, and no

desire to extend our federal system over more territory than we already possess, unless by the free and spontaneous wish of the independent people of adjoining territories." The "true policy, wrote Buchanan to Larkin, "is to let events take their course, unless an attempt should be made to transfer them without consent either to Great Britain or France."

Larkin was instructed to propagate these ideas secretly, and not to allow the political phase of his work to become evident. Extraordinary care was taken to protect his instructions in the course of transmission. One copy was committed to Lieutenant Archibald H. Gillespie, of the Marine Corps, who was to "cooperate as a confidential agent" with Larkin. Gillespie had a perilous trip through Mexico, being forced to destroy all his papers. He did not reach Monterey until April, 1846, having been compelled to travel via the Hawaiian Islands. Larkin's instructions reached him, therefore, in verbal form.

As not infrequently happened, the Senate got wind of the matter about two years later, and made an embarrassing call for papers, which Polk finally transmitted under seal of secrecy in order to block off the assertions of the opposition in Congress that the letter to Larkin "contained instructions to produce a revolution in California before Mexico commenced the war against the United States, and that Col. Fremont had the authority to make the revolution."

MORRIS, Gouverneur; senator, diplomat; b. Morrisania, N.Y., Jan. 31, 1752; s. Lewis and Sarah (Gouverneur) M.; grad. Kings College (now Columbia U.), 1768; studied law under William Smith; m. Anne Carey Randolph, Dec. 25, 1809, 1 child. Admitted to N.Y. bar, 1771; mem N.Y. Provincial Congress, 1775-77; mem. Constitutional Convention from N.Y., July 1775, with John Jay and Robert R. Livingston drafted the Articles of Confederation; signer of the Articles of Confederation, 1775; mem. of com. to organize new govt. of N.Y. state; member of first N.Y. Council of Safety; member of Continental Congress from N.Y. 1777-78, drafted instrument to Benj. Franklin for posting in France; moved to Pa., practiced law in Phil.; contr. articles to Pa. Packet, 1780; U.S. Asst. Supt. Finance, 1781-85; delegate from Pa. to U.S. Constitutional Convention, Phil., 1787; went to France as agent of Robert Morris, assisted in opening tobacco trade on better terms for America and selling of Am. lands; engaged in plot to rescue Louis XVI from Tuleries; appointed to Paris as agent by George Washington, 1792-94, only foreign rep. to remain in Paris during the Reign of Terror; travelled throughout Europe, 1794-98, unsuccessfully intervened on behalf of release of Lafayette, later was present in 1797 at Lafayette's release at Hamburg; mem. U.S. Senate (Federalist) from N.Y. 1800-03, supported La. Purchase; retired to Morrisania 1803-16; approved Hartford Conv.; died Morrisania, Nov. 6, 1816, buried, Bronx, N.Y.

MISSION TO ENGLAND

While Morris' posting to Paris at a time when no law existed to provide for such assignment, has long been debated, his intelligence role has been fairly well established.

He first went to France as an agent for financier Robert Morris. In printed sources there is no absolute proof that John Jay as secretary of the Department of Foreign Affairs used his close friend Gouverneur Morris as a special agent during this period. However, there are hints that such is the case. In a letter to Jay, July 1, 1789 (five months before his appointment by George Washington), Morris wrote: "I am too much occupied to find time for the use of a cipher, and in effect, the government here is so much occupied with its own affairs, that in transmitting to you a letter under an envelope, there is no risk." He would hardly have been in possession of a cipher unless he had an understanding with Jay on the matter of confidential correspondence. What the terms of the understanding were has never been established. It is certain, however, that he had unusual opportunities for gaining information and transmitting much of it to Jay. Apparently he continued with George Washington the correspondence he had begun with Jay. It is also noteworthy that Washington sent his letter to Morris concerning his unofficial mission to England while Jay was exercising the functions of Secretary of State under Washington before the arrival of Jefferson.

Morris' role as a "private agent" is clear in the letter Washington sent him on October 13, 1789. In that letter, he specifically requested Morris to serve as "a private agent" and "in that capacity, on the authority and credit of this letter, to

converse with his Britannic Majesty's ministers." Washington noted important topics which needed discussion between the two governments. (The U.S. and Britain had broken diplomatic relations after the British rebuff of John Adams, who returned home in 1788, leaving the U.S. with no means of communication with the nation with which, of all others, it must have dealings.)

Washington's letter to Morris gave him no authority to do anything but make inquiries and report. The Annals of Congress were later to note that Morris "had no letters of credence, commission, power or authority whatever, whereby he could bind the nation." Morris had no diplomatic character or privilege in his appointment, yet he held consultations with the Duke of Leeds and Mr. Pitt, transmitted the results to his government and paved the way for the commercial treaty which followed.

It is interesting to note that Morris was instructed in October 1789, but the fact of his appointment was not communicated to the Congress until February 1791. The first payment to Morris of \$2000 did not come until December 19, 1790, or almost six months after the establishment of the Contingent Fund (commonly known as the Secret Service Fund) on July 1, 1790. When Morris was appointed, Washington could not be certain that such a fund would even have been available.

Perhaps the most colorful description of Morris' assignment to England is found in the Journal of William Maclay, who wrote on February 18, 1791: "He has acted in a strange kind of capacity, half pimp, half envoy, or perhaps more properly a kind of political evesdropper for sometime past."

A historical point: Washington's notification of the Congress in 1791 of Morris' appointment two years earlier constituted a practical assertion of the right of the President to appoint agents. No influential sentiment of disagreement arose in the Congress at the notification, and the report of the special committee to the House to which the matter was referred, did not deny the right of the President to act as he had done nor was there any discussion in which such denial was made.

Morris' assignment "in a strange kind of capacity...pimp...envoy...political evesdropper" provides a significant precedent for American foreign intelligence activities, for he had been a member of the old Congress, deputy to the convention which framed the U.S. Constitution, and later a member of the Senate under the Constitution. His intelligence role did not preclude his later appointment as Minister Plenipotentiary and Envoy Extraordinary to Louis XVI.

TAYLOR, John Wickes; b. Starkey, N.Y., Nov. 6, 1819; s. James and Maria (Wickes) T.; grad. Hamilton Coll., 1838; m. Chloe Sweeting Langford, 1845; 4 children. Founded Cincinnati Morning Signal, 1846; mem. 2d Ohio Constitutional Convention, 1850-51; secretary, commission to revise judicial code of Ohio, 1851-52; head of Ohio State Library, 1854-56; began practice of law, St. Paul, Minn. Territory, 1856; spl. agent U.S. Treasury Dept. to investigate U.S.-Canadian trade, 1859-69; agent, Lake Superior & Miss. R.R., 1869; special agent U.S. State Dept. charged with investigating Red River Rebellion in Canada, 1869; Am. Consul, Winnipeg, Can., 1870-93, prevented Fenian attack on Manitoba from U.S., 1871. Authored several books. Died Apr. 28, 1893; buried, Utica, N.Y.

MISSION TO CANADA

(condensed from Wriston's "Exec. Agents...")

At the close of 1869, another secret agent was despatched to a region of revolt. James W. Taylor was sent by Secretary of State Hamilton Fish into the region of Manitoba, Saskatchewan and Columbia. Some phases of American expansionist activity after the Civil War are well known, but the story of the dreams of annexing Canada remains a subject which needs careful study. A number of factors combined to stimulate into unusual activity the permanent underlying sentiment for the annexation of Canada. The irritations and fears growing out of the difficulties on the Canada border during the Civil War, and the thought that Canada might serve as a means of paying the Alabama claims, the Fenian difficulties, American suspicion and dislike of the dominion movement, the possession of large military forces confident of their capacity, --these are only a few of the factors to be considered. The upshot was that early in Grant's administration, Secretary Fish sent instructions to Minister John Lothrop Motley in London with reference to possible annexation of Canada, and Fish discussed the question of cession with the British Minister at Washington, Sir Edward Thornton.

In addition to this general desire to obtain Canada, there existed a lively hope of getting immediate possession of one particular area. Lord Selkirk's settlement in the central part of British North America had already behind it nearly a half century of history. Long before a beginning had been made in the settlement of Minnesota, there were settlers over its northern line in British territory. But, progress had been slow and the career of the colony had been checkered. The settlers felt that they were neglected, and not without reason. Monthly postal communication with Canada was instituted about 1857, but was discontinued after two or three years. The line of contact with the outside world through British territory was the roundabout, slow and uncertain route through Hudson Bay. In 1849, Minnesota was organized as a territory. Within ten years it developed into a state. Railroad communications with the East were established. In 1862, American citizens launched a steamboat on the Red River to connect St. Paul with Fort Garry.

The consequence of these developments was that postal communications, as well as routes for trade and migration, ran into the United States rather than in the direction of Canada. Economically it bound the Selkirk settlements with Minnesota, and they began to feel the tide of the northwest movement which was filling up the northern tier of the United States. These connections naturally produced a desire on the American side of the line for annexation. At the same time they increased the dissatisfaction of the inhabitants of the Selkirk settlements with their treatment by the British government and led to the development of considerable annexationist sentiment among them.

Between 1867 and 1870, matters reached a crisis. The purchase of Alaska appeared to make it logical to fill in the gap between Minnesota and North Dakota on the one hand and Alaska on the other. The problem of railroad construction was becoming pressing, and a number of the propositions which were made called for an international railroad which could become national by the simple expedient of annexing the British territory.

The passage of the Dominion of Canada act appeared to be calculated to bind this area more closely to the British Empire; hence if annexation were to come at all, it must come promptly.

Negotiations for the release of the area from the control of the Hudson Bay Company were on foot, but were not moving smoothly and were the cause for dissatisfaction. Finally, the attempt on the part of the Canadian government, after the dominion had been established, to send a governor resulted in his expulsion and in insurrection. The resort to arms was not a movement in favor of annexation to the United States. It grew out of the interests and desires of the French and Roman Catholic sections of the community who had cherished dreams of building a second Quebec on the banks of the Red River. This rebellion was imperfectly understood on the American side of the line. It was certainly a manifestation of an unwillingness on the part of some of the settlers to be drawn into the dominion. It might not unnaturally have been regarded as a manifestation of a desire to join the United States. In any event, it furnished a convenient opportunity for annexationist activities.

It is necessary to bear all these factors in mind to find an explanation of Taylor's secret mission. He had been in the Red River country in the early days of the Civil War as a special agent of the Treasury Department. When the Trent affair appeared likely to result in war, he had made definite suggestion with reference to a winter campaign to seize and annex the territory. He was an authority on the geography, ---physical, economic and political, ---of the area, and he was in contact with Senator Alexander Ramsay, of Minnesota, who was known to be an annexationist. These circumstances explain his selection late in 1869 to go into the Selkirk, Saskatchewan, and Columbia districts to make an investigation. Inasmuch as his labors were in the direction of annexation, it was only natural that his instructions should close by saying: "All your proceedings under this commission are to be strictly confidential, and under no circumstances will you allow them to be made public. This injunction includes the fact of your appointment."

FRANKLIN, Benjamin (b. Boston, Jan. 17, 1706; d. Phil., Pa., Apl. 17, 1790); printer, journalist, inventor, statesman; mem. of committee to draft the Declaration of Independence; signer of Declaration of Independence; mem. U.S. Constitutional Convention; first Postmaster General; minister to France; commissioner to negotiate truce with Great Britain, etc., etc.

MORRIS, Robert (b. Liverpool, Eng., Jan. 31, 1734; d. Phil., Pa., May 8, 1806); financier, continental congressman; mem. of Penna. Committee of Safety; mem. of Secret Committee of the Continental Congress for importation of arms and ammunition; member of Secret Committee of Correspondence; signed Declaration of Independence; mem. Continental Congress; mem. U.S. Senate; mem. of U.S. Constitutional Convention, etc., etc.

FRANKLIN AND MORRIS MOUNT AN INTELLIGENCE
RAID ON BERMUDA, AUGUST 14, 1775

Col. Henry Tucker, of Port Royal, Bermuda, was head of a distinguished family which had long dominated the island. He was committed to the American Revolutionary cause. (In fact, during the American Revolution he would write George Washington, begging Washington to "capture" Bermuda, enclosing a detailed plan for a coup d'etat, and saying he would be happy to capitulate.)

In July, 1775, Tucker arrived in Philadelphia to persuade the Congress to rescind its resolution to stop exporting foodstuffs to the West Indies. In meetings with Benjamin Franklin and Robert Morris, the three worked out a plan in which the supply of gunpowder stored in the Royal Arsenal at Bermuda was the barter for corrective legislation. On July 15th, thanks to Franklin, a Saturday session of the Congress passed a resolution permitting the exchange of food for guns with any vessel arriving in an American port.

With that, the Congress licensed Edward Stiles, under direction of the Committee of Safety, to send the brig Sea Nymph to Bermuda with a supply of soap and foodstuffs. At the same time, the Lady Catherine, under the command of Capt. George Ord, out of Virginia, and the Savannah Pacquet, out of South Carolina, sailed for Bermuda to perform the intelligence mission worked out by Franklin, Morris and Tucker.

The two ships on the intelligence mission arrived on the west coast of Bermuda, where contact was made with Tucker's followers. Crews from the two American ships, along with Tucker's men, sailed to the east end of the island in small, inconspicuous sailboats.

On the night of August 14, 1775, the raiding party, consisting of the American crews and Tucker's men, was ready. The Royal Arsenal was on the estate of Governor Bruere, and the raiders waited until he, his 14 children and watchdogs were asleep. An American sailor

was lowered into the Arsenal through a vent in the roof; he unlocked the Arsenal doors from the inside. The barrels of Crown gunpowder were quietly rolled down the Governor's lawn to the waiting boats, and they sailed back to the mother ships. Twelve days later the Lady Catherine arrived in Philadelphia with 1800 pounds of gunpowder, and the Savannah Pacquet safely delivered a similar cargo at Charleston.

But, the story, unfortunately, does not end there. Franklin, Morris and the Committee had pulled off an intelligence coup, but they neglected to tell Gen. George Washington. Washington, in the meantime, had learned independently of the vulnerable arsenal at St. George's, and dispatched a ship to seize or negotiate for the powder. When the ship arrived, the gunpowder was, of course, gone, and British warships patrolled the island. The mission was not only a failure, it had been unnecessary!

GRATUITIES

Silas Deane, who had arrived in Paris on July 7, 1776, as a representative of the Secret Committee and the Committee of Secret Correspondence, wrote to his superiors: "I wish I had here one of the best saddle-horses of the American or Rhode Island breed. A present of that kind would be money well laid out with a certain personage." A later dispatch made it plain that the Queen was the "personage" to be flattered, and the statement that she "wishes a war" was sufficient proof of the advisability of making the gift. Deane also thought "a few barrels of apples, of walnuts, of butter-nuts, etc." would do some good.

--Jennings B. Sanders, Evolution of Executive Departments of the Continental Congress, Univ. of North Carolina Press, 1935.

Lyman H. Butterfield, in the Proceedings of the American Philosophical Society [June, 1950], has cited Benjamin Franklin's forged letter on the "Sale of the Hessians" as "a hoax so successful that it still deceives twentieth-century readers." The letter, one of many literary-political hoaxes conceived by Franklin, became known in Germany as "Der Uriasbrief" and was learnedly refuted and discredited every few years during the nineteenth century.

* * *

In 1777, a striking propaganda document--a form of black propaganda--began circulating in France. It was called "The Sale of the Hessians", was written originally in French, and centered on the treaties between Great Britain and the German princes for the hire of mercenaries. (Most of these treaties contained a "blood money" provision--that is, the prince would receive levy money for each man killed amounting to about seven pounds per man, with three wounded men reckoned as one killed.) Franklin, of course, was well-acquainted with these treaties, having served on one of the continental congress committees which had prepared propaganda appeals encouraging defection by Hessian forces in America.

The Sale is believed to have come from Franklin's pen shortly after the news reached Europe, in March 1777, of Washington's victory over the Hessians at Trenton. The forged document was in the form of a letter, dated February 18, 1777, from Count de Schaumbergh to Baron Hohendorf, Commanding the Hessian Troops in America. In the letter, the Count spoke of his great joy of learning that, "of the 1,950 engaged in the fight, but 345 escaped. There were just 1,605 men killed, and I cannot sufficiently commend your prudence in sending an exact list of the dead to my minister in London. This precaution was the more necessary, as the report sent to the English ministry does not give but 1,455 dead. This would make 483,450 florins instead of the 643,500 florins which I am entitled to demand under our convention."

The supposed Count deSchaumbergh continued his letter, attributing the differences between British and German casualty lists to a dispute over the listing of wounded men. Regarding the wounded, the Count expressed confidence that Baron Hohendorf would not try "by human succor to recall the life of the unfortunates whose days cannot be lengthened but by the loss of a leg or an arm. That would be making them a pernicious present, and I am sure they would rather die than live in a condition no longer fit for my service. I do not mean by this that you should assassinate them. We should be humane, my dear Baron, but you may insinuate to the surgeons with entire propriety that a crippled man is a reproach to their profession, and that there is no wiser course than to let every one of them die when he ceases to be fit to fight."

The Sale of the Hessians was first circulated in manuscript form in France, and later reprinted in support of the growing European protests against the sale of German manpower to England. To the British and German leaders the furor was, at least, embarrassing.

--Carl Berger
Broadsides and Bayonets

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Butterfield notes that the Franklin forgery grew from his deep and lasting indignation upon receipt of intelligence about the British contracts for German mercenaries. He credits the intelligence to one George Merchant, an American who had marched with Arnold to Quebec, where he had been captured by the British. Merchant was taken to England, then later returned to Halifax. Soon afterwards, he escaped south and brought with him, sewn in the waistband of his breeches, copies of the British contracts with Brunswick, Hesse-Cassel and Hesse-Hanau, for a total of some 17,000 troops. Congress ordered the treaties published, arousing the indignation of both the citizenry and of Franklin.

October 28, 1975

CONGRESSIONAL RECORD — SENATE

S 18731

| **ADDITIONAL STATEMENTS****A HISTORY OF OUR INTELLIGENCE ACTIVITIES**

Mr. GOLDWATER. Mr. President, in all of the current furor over the activities of the CIA and other intelligence gathering units, the accomplishments and history of our intelligence-gathering efforts have been badly overlooked. One would think from the much discussed efforts of certain members of the printed media and the transmitted media that intelligence gathering, including covert actions, is something relatively new in our history and that Americans have never engaged in it before the current efforts, which began about 1950.

Mr. William Colby, testifying before the Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities, presented as an introduction to his discussion of this subject a brief history as to the extent of the activities in the intelligence field experienced by our country. This material has been downgraded and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INTELLIGENCE ACTIVITIES

As the United States approaches its Bicentennial Year, Mr. Chairman, it seems fitting to note that the Founding Fathers had a lively appreciation of covert action as a foreign policy tool.

Two hundred years ago next month, the Continental Congress created our first intelligence service, the Committee of Secret Correspondence. Benjamin Franklin functioned in Paris as both intelligence collector and agent of influence in its behalf. Historians tell us that Franklin used all the tools of the intelligence profession in pursuing his mission in France—mail drops, ciphers, aliases, forged documents and mail interception. To prevent others from forging his correspondence, Franklin used his typographical ingenuity to produce a distinctive script type designed by himself. Franklin's agents established what may have been the first covert action proprietary company, HORTALEZ and Company, to acquire and ship French arms to America.

George Washington used a code number—"711"—and personally engaged in intelligence deception. In one covert deception operation he allowed the British to capture "secret" papers misdirecting the British forces to Manhattan and away from our troops at Newberry saving American forces from defeat. And of course what we now call paramilitary advisers from abroad are heroes to the American people they helped free: Lafayette; von Steuben, Kosciusko and others.

The first known American intelligence net was established by Paul Revere. Thirty persons were assigned the job of reporting on British troop movements in Boston and performing occasional sabotage. The members of this net were known as the "mechanics" because of their technical skills.

Paul Revere filed the first recorded covert action voucher with the Continental Congress for three pounds to cover the cost of printing one thousand impressions. Revere's accounting also asked for reimbursement of living and travel expenses for himself amounting to seven pounds. The House of Representatives reduced his per diem to four shillings a day and settled the bill in full on the 22nd of August 1775.

The Committee of Correspondence also had problems on the degree of secrecy and protection of sources and methods. On one occasion it refused to provide the Congress with secret information. At issue was a dispatch from Arthur Lee brought to the Committee by Thomas Story. The record of the Committee deliberations noted that considering the importance of the information, it was their "indispensable duty" to keep it secret, even from the Congress. The Committee noted that the Congress consisted of too many members to keep secrets. Later, on the 10th of May 1776, the Congress called on the Committee to lay their proceedings before it. An exception was made to this request, and the Committee was permitted to withhold the names of persons they employed or with whom they had corresponded.

It would appear that little has changed!

Mr. Chairman, there are those today who question whether the United States should conduct covert action and, if so, under what rules and constraints. I welcome this opportunity for a serious and substantive discussion of covert action. I am particularly mindful that this issue is being examined against the backdrop of unprecedented public controversy over many of the Agency's past covert action operations. Nevertheless, I firmly believe that the full story of CIA covert action is a good story and one through which the Agency made a real contribution to the security of our country and the survival of democratic government in the world. I am also convinced that our Government should retain the option of employing covert action and that the responsibility for this mission is properly vested in the CIA.

BLACK PROPAGANDA - "TO GOOD NOT TO BE BY FRANKLIN"

One of Benjamin Franklin's well-circulated black propaganda efforts was immediately identified as such by Horace Walpole after he read the story in an English gazette. Commenting on the item, Walpole pronounced it as too good not to be by Franklin.

Perhaps the best description of the black propaganda piece is found in Carl Berger's Broadsides and Bayonets (University of Philadelphia Press, 1961):

In the spring of 1782, with the peace negotiations underway in Paris between Franklin and a British representative, another item of black propaganda began to circulate in the salons of Europe. It was a brain-child of Franklin, and was in the form of the extraordinary Supplement to the Boston Independent Chronicle. Franklin's purpose in publishing this document was to stir public opinion against Britain during the peace talks, in hopes of gaining concessions.

Printed on his press at Passy, the Supplement had every appearance of an actual newspaper supplement, complete with advertisements. The main feature of the paper was a letter purportedly from a New England militia captain, who wrote that he had intercepted eight large packages containing the scalps of American frontiersmen, their women and children, and scalps of soldiers. Included with the packages was an address from the Seneca Indians to Governor Haldimand in Canada, asking that the scalps be forwarded to King George "that he may regard them and be refreshed; and that he may see our faithfulness in destroying his enemies."

Each package was further broken down into a complicated inventory, which listed in detail how the various scalps had been obtained. Package number one, for example, contained "43 scalps of Congress soldiers killed in different skirmishes; these are stretched on black hoops, 4 inches diameter; the inside of the skin painted red, with a small black spot to note their being killed by bullets. Also 62 of farmers killed in their houses; the hoops red; the skin painted brown, and marked with a hoe; and a black hatchet in the middle, signifying their being killed with that weapon." Other packages contained the scalps of women, some with no mark except "the short club" to show "they were knocked dead, or had their brains beat out."

Franklin forwarded a copy of his gruesome masterpiece to John Adams on April 22 [1782] and suggested: "If it were republished in England, it might make them a little ashamed of themselves." As was proper procedure when issuing black propaganda, Franklin was silent about the authorship. To Adams he professed "some doubt" as to the truth of the form of the Supplement but none, he said, "as to the substance, for I believe the number of people actually scalped in this murdering war by the Indians to exceed what is mentioned in [the] invoice. The paper was subsequently reprinted in France and reached England, [where its publication prompted the Franklin attribution comment by Walpole after he saw it in print]

[FRANCE "CONNIVES" TO PROVIDE FRENCH OFFICERS FOR THE AMERICAN CAUSE; SILAS DEANE RECRUITS THEM; LAFAYETTE ALMOST ABORTS THE MISSION; THE OFFICERS ARRIVE]

BARON JOHANN DE KALB'S SECRET
MISSION TO AMERICA

The Baron de Kalb, was a German, somewhat over fifty years of age, who had served through several campaigns in the French army and in the Seven Years' War, and had been an officer under the command of the Duc de Broglie, by whom he had been created assistant quartermaster-general (aide-marechal des logis) and had been given the rank of lieutenant-colonel. By means of the friendship he had succeeded in acquiring for himself of the Marshal Duc de Broglie and of his brother the Comte de Broglie, through his devoted attachment to them and to their interests and his constant readiness to serve them whenever they had occasion to make use of him, Kalb had found opportunity from time to time, and to attain, to some extent at least, the objects of a personal ambition which prevented him from leading a quiet life, such as his ample means would have enable him to do.

Besides his military career, which had given him the reputation of an intelligent and reliable soldier, as he undoubtedly was, he had been employed upon one or two secret missions by the French Cabinet, through which he had come into contact with European political questions and had acquired some experience of men and of affairs. Upon one of these occasions he had been sent to Holland, and afterward the Duc de Choiseul, then Prime Minister, whose practiced eye had foreseen, even long before this time, that serious trouble was about to arise between England and her Colonies, had sent him to America toward the end of the year 1767, to make a report upon the condition of feeling there.

Kalb was familiar, therefore, with our country, and he spoke English very well. He was at this time about to set out upon another secret mission, under the protection and in the interest of the Comte de Broglie, in furtherance of a plan conceived by that nobleman, by which Kalb was to return to America to join the Colonists and to take part with them as a general officer in the American Army...Through the intervention of the Comte de Broglie at the War Department, and for the purpose of his secret mission to America in the personal interest of that gentleman, Kalb was granted a leave of absence for two years, with the promise of promotion, and he obtained subsequently, on the 6th of November, 1776, a commission of brigadier-general for the French Islands.

* * *

Herr Kapp (Kapp's Life of Kalb) says, "because the ministers, instead of opposing, connived at the journey of Kalb and LaFayette so far as their positions allowed. LaFayette says so as much himself, when, in the year 1800, he writes to Madame Geymueller, the daughter of his friend, 'His [Kalb's] departure was favored by the Comte de Broglie and secretly sanctioned by the French Government.' What was true of Kalb must apply to LaFayette, for they travelled together." But this last statement is not historically correct. There was a wide difference between the two men and between their relations to the French Government. Kalb, a foreigner in the French service, was going to America as the agent of Comte de Broglie, in the furtherance of ambitious plans which the Count desired to have carried out, if possible, and with this in view, the latter had not

only used his influence in the War Office to obtain for Kalb a leave of absence for two years, but had secured a promotion for him as a reward for going.

Unquestionably, the departure of Kalb, so far as it attracted any official attention whatever, was connived at by the French Government, as was probably also the departure of the other officers who engaged with Silas Deane to accompany him in the expedition; for, after all, the ministeres were very friendly with the Americans and were quite willing, as we know, to lend them any assistance that they could without exciting the hostility of Great Britain.

But the Marquis de LaFayette was a man of very great prominence, whose open declaration in favor of the insurgents by going to America to fight for them was sure to attract public attention. It was likely to embarrass the ministry at an extremely critical. (Then follows the intricate efforts of the French Government to impede LaFayette's departure--not that of Kalb and the other officers. These efforts and how LaFayette surmounted them, or thinks he surmounted them will not be repeated here, and the Kalb story continues.)

The French Government took no further steps to delay longer a project which circumstances had obliged it to notice officially, but to which the ministers themselves felt no bitter hostility; serious questions of state in regard to their policy toward Great Britain coming up at this time drove the incident from their minds, and the visit which the Emperor Joseph II. of Austria made at that moment to Paris engrossed the Cabinet with matters of international concern. Everybody in Parisian society was talking of LaFayette's exploit with admiration and approval, and M. deVergennes, the Secretary of Foreign Affairs, remarked that he had heard LaFayette had run off again, but that he should take good care this time not to mention it to the King.

The Marquise deLaFayette sailed from Los Pasajes for America in La Victoire, on Sunday, the 20th of April 1777. He had with him, besides the Vicomte de Mauroy and Johann Kalb, the following officers: Colonel deLesser, Colonel deValfort, Lieutenant-Colonel deFayolles, Lieutenant-Colonel deFranval, Major Dubuysson, Major deGimat, Major Dubois-Martin, Captain deVrigny, Captain deBedaulx, Captain de la Colomb, Captain Caitaine, Lieutenant Candon, and an American named Price, who had been recommended by Mr. Deane and who is described in the official permit as "Leonard Price, aged 22, native of Sauveterre."

(At sea, LaFayette ordered the destination of the ship changed from the West Indies for the United States, to make up for the lost time. His ship landed at South Inlet, near Georgetown, in South Carolina on 13 June 1777. French officers had entered the war on the American side.)*

(*Prior to this time, French officers had approached the Congress on an independent basis and secured commissions, but this is the first group "connived" by the French Government.)

Extracted from: TOWER, Charlemagne. The Marquis de LaFayette in the American Revolution. Philadelphia, 1901.

Reprint, New York, Capo Press, 19

LIVINGSTON, William, governor, New Jersey; b. Albany, N.Y., Nov. 1723; s. Philip and Catherine (Van Brugh) L.; grad. Yale, 1741, LLD (hon.) 1778; m. Susanna French, 1745, 13 children, including Henry Brockhorst, Susanna, Sarah (Mrs. John Jay). Admitted to N.J. Bar, 1748; a counsel for defendants in great chancery suit between proprietors of N.J. and settlers, 1752; published weekly paper The Independent Reflector 1752; mem. Essex County Committee of Correspondence, 1774; mem. Continental Congress from N.J., 1774, 75; served as Brig. Gen. in command N.Y. Militia, 1776; 1st Governor of New Jersey, 1776-90; emm. U.S. Constitutional Convention, 1787. Author. Died, Elizabethtown, N.J., July 25, 1790.

WILLIAM LIVINGSTON, PROPAGANDIST

Professor Carl B. Prince, New York University, has called William Livingston "perhaps second only to Tom Paine as a propagandist for the American patriotic cause." "Among his contemporaries, there was a feeling that he was much more significant than we realize." He notes that Livingston had been "writing with great effectiveness under a number of pseudonyms in the newspapers of the day. The idea was to persuade New Jersey, New York and Pennsylvania citizens to support the rebels by appearing to write as one of them rather than as a Governor long known to favor independence. The Governor's close friend, George Washington, often sought the New Jersey propagandist's aid.

Livingston was on the run throughout New Jersey during the early war years as a prime target of would-be loyalist assassins, and because as head of the New Jersey Council of Safety he was holding kangaroo courts in town after town to punish suspected Tories.

But, he contributed voluminously to weekly newspapers, and he accepted writing assignments from his Commander in Chief. "I have sent Collins a number of letters," he responded to a request from Washington, "as if by different hands, not even excluding the tribe of petticoats, all calculated to caution America against the insidious arts of enemies. This mode of rendering a measure unpopular, I have frequently experienced in my political days to be of surprising efficacy, as the common people collect from it that everybody is against it, and for that reason those who are really for it grow discouraged, from magnifying in their own imagination the strength of their adversary beyond its true amount."

Professor Prince notes that Governor Livingston is not mentioned in many standard source books, despite 15 consecutive year-long terms as Governor, service as a commanding officer and organizing general of the militia in a state crucial to the Revolution, service in the first and second Continental Congresses, and a key role in providing for the limitation of slavery at the Constitutional Convention of 1787. Prof. Prince speculates that Livingston has been largely ignored because much of his work was accomplished behind the scenes.

THE MISSION OF BONVOULOIR TO AMERICA
(Extracted from The Marquis de La Fayette in the American Revolution by Charlemagne Tower, Philadelphia 1901. pp 80-82)

Having gone thus far concerning affairs in America, M. de Vergennes began to feel that he lacked reliable information as to what was taking place in the colonies, and that, in fact, he knew little or nothing about the Americans themselves, what manner of people they were, or what they were capable of. His sources of knowledge were almost entirely in England, and he began to discern that what came from there was not correct; for it now became evident that both the Government and the people of Great Britain had been mistaken as to the gravity of the contest and the facility with which it could be decided...He decided to send an agent to America able to form an estimate of the country and its resources, of the people, of their character and their military strength; who should take every opportunity of a vessel returning to France to make a detailed report of what he saw, in order that the ministry might judge of the situation as affairs developed, and directly from sources of their own.

A persons of this description was found in London by the Ambassador, M. de Guines, who described him as "a French gentleman, who had been attached to the regiment 'du cap,' had been in all the English Colonies, and, in fact, had just returned from there; he had acquaintances in Boston, New York, Providence, and Philadelphia, through whom doubtless he would be enabled to obtain such information as was required." His name was Achard Bonvouloir; he was first cousin to the Marquis de Lambert. The Ambassador undertook to arrange with him for his adventure in such a way that under any circumstances M. Bonvouloir should not be able to compromise any one but himself; he should have nothing to show by which, in case of his capture or detection, the French Government could be brought into connection with his undertaking; and this had been agreed to by Bonvouloir at the outset. The price of his services was: 1st, That he should receive a lieutenant's commission in the King's army, in order that he might be entitled to proper consideration in American, and if it became necessary in the course of his investigations, that he might more readily enlist in the army of the "rebels." This commission was to be antedated, because when he had been in America formerly he had given himself out as a French officer, which was not exactly true, although he had been attached as a volunteer to the regiment "du Cap," then stationed in the West Indies. 2nd, Two Hundred Louis a year, out of which he should pay all his expenses. 3rd, A letter from the King in which his Majesty should express his appreciation of M. Bonvouloir's zeal in the interests of France, and should recognize his services to the country: this however, was not to be given to him, but was to be read to him, and retained by the Ambassador.

These conditions were "placed under the eyes of the King" by Vergennes, who announced to the Ambassador that his Majesty approved of them, as well as of the enterprise, and directed M. Bonvouloir to set out immediately for America, especial regard being had, however, to the fulfilment of that part of the contract which made it impossible for Bonvouloir to involve the Government, and it being

understood that he should not look for protection if he fell into the hands of the British...His letters were to be addressed to Antwerp, and sent under double envelope to a correspondent in Calais, who should not forward them to Antwerp, however, but should deliver them to the French Ambassador in London. Their substance was to relate exclusively to commercial matters, so devised under a form of cipher, that, while they should convey the intelligence desired by the Government, they should not excite suspicion if they came into the hands of those for whom they were not attended. Thus equipped, M. Bonvouloir set off from London on September 8, 1775. The Ambassador reported that day to Vergennes: "...He goes aboard a vessel this evening which will sail during the night for Philadelphia: I have forbidden him even to pronounce the word Frenchman or to enter into any discussion as to our disposition toward the Americans. His mission is confined to the duty of giving us such information as may be interesting to us; he is quite able to accomplish this, but if he fails we shall only have risked two hundred louis in a matter which may become very important."

BEAUMARCHAIS ON SECRECY

Pierre Augustin Caron de Beaumarchis, the French Crown's secret agent in contact with Arthur Lee, the Colonial Agent based in London, on February 29, 1776, addressed two memorials directly to Louis XVI. In one, he urged immediate secret aid to the Americans, quoting Lee's assurances of trade advantages that would accrue to France after the war. The second memorial proposed the establishment of the cover firm, Roderique Hortalez et Cie, as a vehicle for the secret aid.

Baumarchais reminded the King that the success of the plan depended wholly upon rapidity of implementation and on secrecy, adding:

"Your Majesty knows better than any one that secrecy is the soul of business, and that in politics a project once disclosed is a project doomed to failure."

THE COMMANDER-IN-CHIEF AND SECRETS

From a letter by George Washington at Morristown, New Jersey, of February 24, 1777, to Governor Patrick Henry of Virginia.

"...It will naturally occur to you, Sir, that there are some Secrets, on the keeping of which so, depends, oftentimes, the salvation of an Army: Secrets which cannot, at least ought not to, be intrusted to paper; nay, which none but the Commander in Chief at that time, should be acquainted with."

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